

HEARING
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)
)
Application for Certification) Docket No.
for the Metcalf Energy Center) 99-AFC-3
(Calpine Corporation and)
Bechtel Enterprises, Inc.))
-----)

GENERAL SERVICES ADMINISTRATION

1555 BERGER DRIVE
SAN JOSE, CALIFORNIA

TUESDAY, JANUARY 30, 2001

2:15 p.m.

Reported by:
James Ramos
Contract No. 170-99-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

Robert A. Laurie, Commissioner, Presiding Member

William Keese, Chairman, Associate Member

Stanley Valkosky, Hearing Officer

STAFF PRESENT

Kerry Willis

Paul C. Richins, Jr.

James S. Adams

APPLICANT

Jeffery D. Harris, Attorney,
Ellison, Schneider and Harris
Calpine Corporation/Bechtel Enterprises

Kenneth E. Abreu, Development Manager
Calpine Corporation
Metcalf Energy Center

John L. Carrier, Senior Project Manager
CH2MHILL

Steve DeYoung
Calpine Corporation/Bechtel Enterprises

Wynnlee Crisp

Norman C. Hulberg
Hulberg & Associates

Philip Q. Hanser
The Brattle Group

INTERVENORS

John Wiktorowicz
Rancho Santa Teresa Swim and Racquet Club

Theyer Howard Watkins
for Rancho Santa Teresa Swim and Racquet Club

INTERVENORS

Scott Scholz
South San Jose.com

Elizabeth Cord, President
Santa Teresa Citizen Action Group

William J. Garbett
Agent, Public

Issa Ajlouny
Agent, Public

Michael E. Boyd, Commissioner
City of Sunnyvale
Californians for Renewable Energy, CARE

Robert F. Williams, President
Williams Technical Associates, Inc.
ST Action

ALSO PRESENT

Mollie Dent
Richard Buikema
City of San Jose

Oliver Kraemer

Rick Callender

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

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1 P R O C E E D I N G S

2 2:15 p.m.

3 PRESIDING MEMBER LAURIE: Ladies and
4 gentlemen, good afternoon. Comfortable facilities
5 today. At least we can bond a little bit closer.

6 (Laughter.)

7 PRESIDING MEMBER LAURIE: My name is
8 Robert Laurie, Commissioner at the California
9 Energy Commission, and Presiding Member of the
10 Siting Committee hearing the Metcalf Power Plant
11 project.

12 To my far left is Bill Keese, Chairman
13 of the Energy Commission, and my colleague on this
14 Committee. To my immediate left is Stan Valkosky,
15 the Hearing Officer assigned to the case. And Mr.
16 Valkosky will administer these proceedings.

17 At this time I'd like to ask Mr.
18 Valkosky to go over the procedures for the day,
19 for the parties and the audience in attendance.
20 And then we'll ask Chairman Keese if he has any
21 comments, and we'll see if I have any before we
22 begin. Stan.

23 HEARING OFFICER VALKOSKY: Thank you,
24 Commissioner. I'd like to start out by having the
25 parties introduce themselves. Mr. Harris.

1 MR. HARRIS: Thank you. My name is Jeff
2 Harris with Ellison, Schneider and Harris, on
3 behalf of the Calpine/Bechtel joint venture.

4 To my right is Mr. Ken Abreu, who is the
5 Project Manager for the joint venture. And to my
6 left is Mr. Steve DeYoung, who is the
7 Environmental Project Manager for the joint
8 venture.

9 And the rest of the folks at the table
10 are witnesses. You'll meet them in a few minutes.

11 HEARING OFFICER VALKOSKY: Ms. Willis.

12 MS. WILLIS: Thank you, I'm Kerry
13 Willis, Staff Counsel with the Energy Commission.
14 To my right is Paul Richins, Project Manager. And
15 to my left is Jim Adams, who will be testifying
16 later on socioeconomics.

17 HEARING OFFICER VALKOSKY: And the
18 intervenors, starting with Mr. Boyd.

19 MR. BOYD: I'm Mike Boyd, President of
20 Californians for Renewable Energy, CARE.

21 MR. AJLOUNY: Issa Ajlouny, local
22 neighbor, intervenor.

23 MR. SCHOLZ: Scott Scholz, local
24 resident, intervenor.

25 DR. WIKTOROWICZ: Dr. John Wiktorowicz.

1 I'm a representative of intervenor Rancho Santa
2 Teresa Swim and Racquet Club.

3 HEARING OFFICER VALKOSKY: Ms. Dent.

4 MS. DENT: Mollie Dent for the City of
5 San Jose.

6 HEARING OFFICER VALKOSKY: Thank you.

7 By way of background, I'd like to note this is the
8 third set of evidentiary hearings for the proposed
9 Metcalf Energy Center.

10 The Committee noticed this set of
11 hearings in a notice and order issued on December
12 11th of last year. That document also contained
13 filing dates for the testimony.

14 In addition to the October 2000 staff
15 assessment, the AFC document, and its associated
16 supplements, other filings that we've received
17 which are pertinent to this set of hearings
18 include:

19 Applicant's group 2B testimony, filed
20 December 29th, which we have identified as exhibit
21 10.

22 Declaration of James McDonald regarding
23 environmental justice, dated January 11th, and
24 submitted to the administrative record on behalf
25 of CARE.

1 Staff's group 2B FSA changes regarding
2 socioeconomics dated January 12th; we've
3 identified that as exhibit 68.

4 Group 2B testimony on property value
5 from the Santa Teresa Group by witness Ryan, which
6 is dated January 12th. We've identified that as
7 exhibit 69.

8 Group 2B testimony on property value
9 from the Santa Teresa Group, witness is Hansen.
10 Dated January 12th. Identified that as exhibit
11 70.

12 Group 2B testimony on environmental
13 justice from the Santa Teresa Group, dated January
14 12th, which we've identified as exhibit 71.

15 Group 2B testimony on community
16 petitions from the Santa Teresa Group, dated
17 January 12th, which we've identified as exhibit
18 72.

19 Socioeconomic testimony on behalf of the
20 Swim and Racquet Club, dated January 12th; we've
21 identified that as exhibit 73.

22 Staff's group 2B FSA changes regarding
23 land use, dated January 12th; we've identified
24 that as exhibit 74.

25 Testimony of Mayor Gonzalez regarding

1 land use, dated January 12th; we've identified
2 that as exhibit 75.

3 Testimony of Kent Edens regarding land
4 use, dated January 12th. That's exhibit 76.

5 And applicant's rebuttal to Mr. Edens'
6 testimony, which is dated January 22nd. We've
7 identified that as exhibit 77.

8 The purpose and procedures we'll follow
9 today are the same as the previous evidentiary
10 hearings. Basically a party sponsoring a witness
11 shall briefly establish the witness'
12 qualifications and have the witness orally
13 summarize prepared testimony before requesting
14 that the testimony be moved into evidence.
15 Relevant exhibits may be offered into evidence at
16 that time, as well.

17 At the conclusion of a witness' direct
18 testimony the Committee will provide the other
19 parties an opportunity for cross-examination,
20 followed by redirect and recross, as appropriate.

21 At the conclusion of each topic area we
22 will provide an opportunity for public comment on
23 that topic.

24 The sole topic we'll be discussing today
25 is that of socioeconomics.

1 The parties are encouraged to
2 consolidate presentations by witnesses and/or
3 cross-examination to the greatest extent possible
4 in order to minimize duplication and conserve
5 hearing time.

6 And before we begin there are a couple
7 of administrative matters I'd like to clarify.
8 First, Mr. Harris, this regards the discovery
9 matter between the applicant and CVRP. To your
10 knowledge are all the relative filings in on that
11 document?

12 MR. HARRIS: Yes, we filed a document, I
13 think, on Friday, responding to CVRP's last
14 response, indicating that we've provided
15 everything that we had and made it all available
16 to them. So, in our view, we have nothing left
17 that's responsive to that.

18 HEARING OFFICER VALKOSKY: Okay, thank
19 you.

20 MR. HARRIS: We've also suggested in
21 that letter an order from the Committee to clarify
22 that the data requests are withdrawn, the one
23 outstanding one has been satisfied, and the
24 previous order be vacated.

25 HEARING OFFICER VALKOSKY: Okay, the

1 Committee will take that under submission.

2 Next, in regard to a letter from the
3 City of San Jose, Ms. Dent, am I correct in
4 understanding that Mayor Gonzalez will not appear
5 tomorrow, but would prefer to be included among
6 the policy/override hearing, which has yet to be
7 scheduled?

8 MS. DENT: Yes, if that's convenient
9 with the Commission, that's the Mayor's desire at
10 this time.

11 HEARING OFFICER VALKOSKY: Okay. And I
12 would like to indicate that the tentative plans,
13 and I want to emphasize tentative, since it's not
14 yet been noticed, would be to conduct that event
15 about March 22nd or so.

16 MS. DENT: Thank you for the
17 information.

18 HEARING OFFICER VALKOSKY: Okay.

19 MR. HARRIS: Mr. Valkosky, a question on
20 that issue. I think exhibit 75, as we've marked
21 it now, is the right number?

22 HEARING OFFICER VALKOSKY: Yes, that is
23 the testimony of Mayor Gonzalez.

24 MR. HARRIS: Will that become public
25 comment at this point, or is it going to remain an

1 exhibit?

2 HEARING OFFICER VALKOSKY: I assume it
3 will be basically irrelevant for today and
4 tomorrow's hearing, and we'll see what happens
5 with it at the policy hearing.

6 MR. HARRIS: Okay.

7 HEARING OFFICER VALKOSKY: Yes?

8 MR. AJLOUNY: For the override topic
9 that you talked that might happen March 22nd, is
10 that going to be just comments, and the comments
11 are not going to enter into the -- as testimony?

12 HEARING OFFICER VALKOSKY: The comments
13 will be part of the record. It will be testimony
14 in the, I use the term loosely, legislative sense,
15 which is basically unsworn testimony. Unsworn
16 comments --

17 MR. AJLOUNY: So it's probably not
18 weighed as heavy as --

19 HEARING OFFICER VALKOSKY: -- as we
20 would view it. No, it's certainly relevant, and
21 it is --

22 MR. AJLOUNY: So there's no cross-
23 examination, either, at that --

24 HEARING OFFICER VALKOSKY: Very unlikely
25 there would be cross-examination.

1 MR. AJLOUNY: Okay, thank you.

2 HEARING OFFICER VALKOSKY: Okay. Are
3 there any other matters before we begin? Mr.
4 Ajlouny.

5 MR. AJLOUNY: I just have a concern
6 being involved with this, and what I've understood
7 to be how we proceed in these hearings. And I
8 just have a question and wondered if Commissioner
9 Keese or Commissioner Laurie has anything to say
10 in regards to this.

11 With all the political pressure,
12 especially in the last week, that's going on with
13 the state senators and saying that they really
14 really want this Metcalf Energy Center coming into
15 Coyote Valley. In this letter I have dated
16 January 25th, I don't know, Commissioner Keese,
17 it's addressed to you. I don't know if you even
18 received it from State Senator John L. Burton,
19 with a few other signatures.

20 I just wanted to know is this kind of
21 stuff entered in as testimony, or have any weight
22 on your decision, or, you know, any -- I just want
23 to know, is it -- it can happen out there, but
24 does it influence your decision?

25 PRESIDING MEMBER LAURIE: I consider it

1 a public comment. Just as if any one of your
2 neighbors stood up and said, I want the plant, or
3 I don't want the plant.

4 MR. AJLOUNY: So, it doesn't have very
5 much weight on this?

6 PRESIDING MEMBER LAURIE: What other
7 people think is, to some extent, relevant,
8 including your neighbors, as it pertains to some
9 issues. I haven't seen the letter, so I don't
10 know what you're making reference to.

11 MR. AJLOUNY: Okay. I'll try to provide
12 you a copy of it, if you'd like.

13 PRESIDING MEMBER LAURIE: If it's been
14 submitted I'm sure I'll see it.

15 CHAIRMAN KEESE: Commissioner Laurie, I
16 did receive that letter about two minutes before I
17 left for here.

18 PRESIDING MEMBER LAURIE: Oh, okay.

19 CHAIRMAN KEESE: I sent it to dockets,
20 which means everybody here will get it.

21 PRESIDING MEMBER LAURIE: Okay.

22 CHAIRMAN KEESE: I didn't read it in
23 detail. I saw there were four signatures at the
24 bottom. And I saw it was regarding Metcalf. But
25 it will come back to me in that process.

1 And it's like newspaper articles. You
2 can't prevent us from reading newspaper articles
3 or seeing -- hearing radio talk shows.

4 PRESIDING MEMBER LAURIE: Or the email
5 from your neighbors.

6 MR. AJLOUNY: Yeah.

7 CHAIRMAN KEESE: Or the 22 emails I got
8 in the last two days saying no on Metcalf.

9 MR. AJLOUNY: And I appreciate that. I
10 just wanted to make sure I understood the process.
11 I thought that to be true, and I appreciate you
12 clarifying it.

13 DR. WIKTOROWICZ: Mr. Valkosky.

14 HEARING OFFICER VALKOSKY: Yes, sir.

15 DR. WIKTOROWICZ: Just one point, I'd
16 like to acknowledge the arrival of Professor
17 Theyer Watkins, our expert testimony for Rancho
18 Santa Teresa Swim and Racquet Club.

19 HEARING OFFICER VALKOSKY: Thank you,
20 Doctor. Any other further preliminary matters?
21 Mr. Boyd.

22 MR. BOYD: When you were going over what
23 you had evidence numbers on, I didn't hear you
24 mention our October 13th filing where we made a
25 motion for an environmental justice analysis. Do

1 you remember that?

2 HEARING OFFICER VALKOSKY: No, that's
3 not really relevant --

4 MR. BOYD: Well, it was --

5 HEARING OFFICER VALKOSKY: -- for today.

6 MR. BOYD: Are you saying we're not
7 going to be discussing environmental justice
8 analysis --

9 HEARING OFFICER VALKOSKY: No, I'm not
10 saying that at all. I was just --

11 MR. BOYD: So why is it not relevant?

12 HEARING OFFICER VALKOSKY: I was just
13 going over the documents that had been submitted
14 today in response to the hearing order.

15 MR. BOYD: Okay. I'm just --

16 HEARING OFFICER VALKOSKY: The hearing
17 order was issued on December 11th.

18 MR. BOYD: That's fine.

19 HEARING OFFICER VALKOSKY: Okay.

20 MR. BOYD: I submitted this prior to
21 that is what I'm telling you. October 13th.

22 HEARING OFFICER VALKOSKY: I'll check on
23 it, but environmental justice is a topic included
24 in today's testimony.

25 MR. BOYD: Okay. Thank you.

1 HEARING OFFICER VALKOSKY: Further
2 preliminary matters? Okay, Mr. Harris.

3 MR. HARRIS: Thank you. We have a panel
4 of four witnesses, and I'm going to present them
5 in the order of Mr. Carrier, who will deal with
6 the traditional socio issues; Mr. Crisp on
7 environmental justice; Mr. Hulberg on property
8 values; and Mr. Hanser on market price effects.

9 And so I'd ask that the witnesses be
10 sworn.

11 Whereupon,

12 JOHN CARRIER, WYNNLEE CRISP,

13 NORMAN HULBERG and PHILIP HANSER

14 were called as witnesses herein, and after first
15 having been duly sworn, were examined and
16 testified as follows:

17 MR. HARRIS: Thank you. Mr. Carrier is
18 going to be the initial witness. He will answer
19 for the panel on direct here. And I'd also ask
20 that questions on cross be directed through Mr.
21 Carrier, since he will be able to figure out who
22 is best able to answer the questions. So, with
23 that, I'd like to start.

24 DIRECT EXAMINATION

25 BY MR. HARRIS:

1 Q Could you please state your name for the
2 record.

3 A John Carrier, C-a-r-r-i-e-r.

4 Q And what subject matter testimony are
5 you here to sponsor today?

6 A Socioeconomic resources.

7 Q Specifically which documents has the
8 panel prepared as part of their testimony?

9 A Section 8.8 of the AFC; supplements A
10 and C to the AFC; response to CEC data request
11 numbers 69, 70, 185 and 186; response to Jeffery
12 Wade data request numbers 14, 15, 19 and 20 of set
13 one; and 56C and 70 of set two; comments filed on
14 the PSA with regard to socioeconomics in set one;
15 and then the environmental justice analysis, which
16 is appendix B to our testimony, and consumer and
17 reliability benefits resulted from the Metcalf
18 Energy Center, which is appendix C of our
19 testimony.

20 MR. HARRIS: I understand you have a
21 coupe, I guess four corrections or additions, is
22 that correct?

23 MR. CARRIER: Yes.

24 MR. HARRIS: Can you state those, as
25 well?

1 MR. CARRIER: AFC appendix 8.8; errata
2 sheet for volume one of the AFC; PSA comments set
3 8; and the recent press release of the NAACP
4 endorsing the Metcalf Energy Center project.

5 MR. HARRIS: And you have copies of that
6 letter from the NAACP, is that correct?

7 MR. CARRIER: Yes.

8 MR. HARRIS: I'd like to pass those out
9 since those were just received on Friday, and most
10 people haven't received them in the mail. They
11 were docketed and served on Friday. But, like I
12 said, I don't know if everybody got those. So I
13 have copies.

14 I'll move quickly through the exhibit
15 list. Section 8.8 of the AFC is exhibit 1.
16 Supplement A is exhibit 3. Supplement C is
17 exhibit 5. Responses to CEC data requests 69 and
18 70 of set 1A is exhibit 13.

19 Responses to CEC data request 70 of set
20 1C is exhibit 20. Responses to CEC data request
21 number 70 of set 1F is exhibit 47. Responses to
22 CEC data request number 70 in set 1N is a new
23 exhibit. I'd ask that that be assigned a number.

24 HEARING OFFICER VALKOSKY: Identify that
25 as exhibit 78.

1 MR. HARRIS: The next one is the CEC
2 data request numbers 185 and 186 which was
3 previously identified as exhibit 27. Responses to
4 CEC data request numbers 185 and 186, set 2D, is a
5 new exhibit.

6 HEARING OFFICER VALKOSKY: 79.

7 MR. HARRIS: 79 or 80?

8 HEARING OFFICER VALKOSKY: By my list I
9 have 78 was the first unassigned number.

10 MR. HARRIS: Okay, that's fine. I'm
11 sorry, I wrote down 79. My mistake.

12 Responses to Jeff Wade numbers 14, 15,
13 19 and 20 of set 1A is exhibit 16A. Responses to
14 Jeff Wade numbers 14 and 15 of set 1B is a new
15 exhibit.

16 HEARING OFFICER VALKOSKY: Identify that
17 as exhibit 80.

18 MR. HARRIS: Thank you. The responses
19 to Jeff Wade numbers 56C and 70 of set 2 is
20 exhibit 16B. PSA set one comments is exhibit 37.
21 The environmental justice appendix B is part of
22 exhibit 10. The consumer reliability benefits
23 appendix C is also part of exhibit 10.

24 With the new and corrections, appendix
25 8.8 of the AFC is part of exhibit 1. Errata sheet

1 number 1 for the AFC is exhibit 2. PSA comment
2 set 8 is exhibit 66. And the NAACP endorsement
3 press release is a new exhibit, and I'd ask that
4 be given a number.

5 HEARING OFFICER VALKOSKY: Number it 81.

6 MR. HARRIS: I have, I think, four of
7 those documents I want to move into evidence. Do
8 you want me to wait until the end of our direct?

9 HEARING OFFICER VALKOSKY: Yes.

10 MR. HARRIS: Okay.

11 HEARING OFFICER VALKOSKY: I'm sorry,
12 was there a question, Mr. Boyd?

13 MR. BOYD: My question is about the
14 NAACP endorsement. Is that new information that
15 we're making?

16 HEARING OFFICER VALKOSKY: That is
17 information that is just received and is just
18 being passed out right now.

19 MR. BOYD: So will that be a matter that
20 we'll be able to discuss at this hearing today?

21 HEARING OFFICER VALKOSKY: Depends what
22 applicant wants to do with it.

23 MR. BOYD: So you're open to questions
24 on that?

25 MR. HARRIS: Yes, we're making it

1 available specifically so that you can ask
2 questions if you have questions on it.

3 MR. BOYD: Is there a possibility that
4 Rick will show up today and be available for
5 questions?

6 MR. HARRIS: I don't believe that the
7 NAACP folks are going to be here, no.

8 MR. BOYD: Okay.

9 MR. HARRIS: It's a press release. Mr.
10 Crisp, though, is familiar with it. He's our
11 environmental justice witness and can answer
12 questions if you have questions about it.

13 MR. BOYD: Okay, that's fine.

14 MR. HARRIS: Excuse me, so we'll go
15 ahead and proceed.

16 Mr. Carrier, what subject matter -- I've
17 already been through this, haven't I? We've
18 handled the corrections.

19 Do you have any other changes or
20 corrections to your testimony?

21 MR. CARRIER: No, I don't.

22 MR. HARRIS: Were these documents
23 prepared either by you or at your direction?

24 MR. CARRIER: Yes.

25 MR. HARRIS: Are the facts stated

1 therein true to the best of your knowledge?

2 MR. CARRIER: Yes.

3 MR. HARRIS: Are the opinions stated
4 therein your own?

5 MR. CARRIER: Yes.

6 MR. HARRIS: And do you adopt this as
7 the testimony for the panel for the proceeding?

8 MR. CARRIER: Yes.

9 MR. HARRIS: Would you briefly review
10 your qualifications for us?

11 MR. CARRIER: Yes. I have a bachelors
12 degree in sociology; a masters in business
13 administration; a juris doctorate degree, I'm a
14 member of the California State Bar; and I have 15
15 years experience preparing socioeconomic analyses
16 and managing siting projects for power plant
17 licensing permitting in the State of California.

18 MR. HARRIS: Can you provide us with a
19 summary of what the socioeconomic testimony
20 analyzes?

21 MR. CARRIER: Certainly. Socioeconomics
22 examines the following areas: population growth
23 and demographics; housing supply; the local
24 economy; plant construction workforce; plant
25 operations workforce; fiscal impacts from the

1 project; impacts to public services such as law
2 enforcement, fire protection, hazardous materials
3 response, hospitals, utilities, including
4 electricity, gas, water, sewer, telephone; and
5 cumulative impacts.

6 MR. HARRIS: What was the region of
7 influence that you studied?

8 MR. CARRIER: We determined the region
9 of influence to be the San Jose metropolitan
10 statistical area, MSA, which has the same
11 boundaries as Santa Clara County.

12 MR. HARRIS: In terms of demographics,
13 what did your analysis find?

14 MR. CARRIER: Based on the 1990 census
15 data, 52 percent of Santa Clara County's
16 population was Caucasian. The City of San Jose
17 had pretty similar composition.

18 We also looked at the community of
19 Coyote, the area within the Coyote zip code was
20 74.6 percent Caucasian.

21 MR. HARRIS: Turning to the issue of
22 housing vacancies, what findings did you make?

23 MR. CARRIER: In 1999 Santa Clara County
24 had a housing vacancy rate of 3.85 percent. The
25 City of San Jose had a housing vacancy rate of

1 3.53 percent. Both of those were slightly below
2 the federal housing standard of 5 percent, which
3 means that there is general unavailability of
4 housing. It's in short supply.

5 MR. HARRIS: Thank you. In terms of the
6 local economy, what were your findings there?

7 MR. CARRIER: The County had a
8 recommended fiscal year 2000 expenditure budget of
9 \$2.1 billion. And the City of San Jose had a
10 proposed 99/2000 fiscal year expenditure budget of
11 \$590 million.

12 MR. HARRIS: And what about work force?

13 MR. CARRIER: In 1998 the City had just
14 under a half a million laborers, and the County
15 had just under one million laborers. The MSA,
16 which is the County, had a 1998 unemployment rate
17 of about 3.4 percent, as compared to the state
18 unemployment rate of 5.8 percent.

19 MR. HARRIS: In terms of planning
20 construction what were your findings there?

21 MR. CARRIER: The construction period is
22 projected to be 18 to 24 months. We had a total
23 workforce estimate of 4085 person months with a
24 peak workforce of 399 workers. According to the
25 labor unions there was sufficient workforce

1 available in the area to construct the plant.

2 MR. HARRIS: So, there is a sufficient
3 labor pool available?

4 MR. CARRIER: Yes, there is.

5 MR. HARRIS: What were your findings in
6 terms of plant operations?

7 MR. CARRIER: Calpine expects to employ
8 20 to 24 employees that will result in annual
9 salaries of between \$1- and \$1.2 million per year.

10 MR. HARRIS: And what are the projected
11 fiscal impacts of the project?

12 MR. CARRIER: The project is expected to
13 cost between \$300- and \$400 million and generate
14 annual property taxes in the range of \$3 million
15 to \$5.2 million.

16 Sales tax revenues are estimated at
17 \$990,000 to \$1.5 million per year that would be
18 generated from annual operations and maintenance
19 budgets of between \$12- to \$19 million. Of which
20 about \$2- to \$4 million would be local
21 expenditures.

22 Therefore, Metcalf Energy Center would
23 generate about \$165,000 to \$330,000 in local sales
24 taxes, of which \$20,000 to \$40,000 would go to the
25 local jurisdiction at the point of sale.

1 MR. HARRIS: Thank you. Now, turning to
2 the question of provision of public services.
3 What were your findings there?

4 MR. CARRIER: We determined that there
5 are two areas of potential impacts, fire
6 protection and schools. The nearest fire station
7 has an approximately seven-minute response time.
8 The City recommended that a new fire station be
9 constructed in Coyote Valley. There is a
10 condition of certification in the worker safety
11 area that addresses that issue.

12 MR. HARRIS: So that new fire station
13 would serve the entire Coyote Valley, not just the
14 Metcalf facility, is that correct?

15 MR. CARRIER: That's correct.'

16 MR. HARRIS: Thank you.

17 MR. CARRIER: And then the second one
18 was the Morgan Hill Unified School District had
19 exceeded its planned capacity. And although no
20 impacts were likely, Metcalf Energy Center has
21 agreed to pay school impact fees.

22 MR. HARRIS: Thank you. Now, in terms
23 of cumulative impacts what are your findings?

24 MR. CARRIER: I agree with inclusions of
25 the FSA that there would not be any adverse

1 socioeconomic impacts on a cumulative basis.

2 MR. HARRIS: And have you had a chance
3 to examine the project's compliance with the
4 City's economic development policy?

5 MR. CARRIER: Yes, I have.

6 MR. HARRIS: What were your findings
7 there?

8 MR. CARRIER: We compared the Metcalf
9 Energy Center to the proposed CVRP Cisco
10 development, and looked at the taxes generated on
11 both a net acre basis and also on a per employee
12 basis.

13 CVRP Cisco is expected to generate about
14 \$15,584 per year in property tax, and Metcalf
15 Energy Center, on a per acre basis, would generate
16 \$61,673 per acre. On a per employee basis, CVRP
17 Cisco development would generate \$303 per
18 employee, while Metcalf Energy Center would
19 generate \$27,958 per employees, therefore, it
20 meets the economic development policy.

21 MR. HARRIS: In terms of whether
22 reliable power has been an issue, did you have a
23 chance to examine whether reliable power in San
24 Jose and in the area will have an effect on
25 economic development?

1 MR. CARRIER: There have been several
2 newspaper articles that have identified that it
3 would have an impact. A recent one was the
4 announcement by -- or the article in The San
5 Francisco Chronicle where Intel's chief executive,
6 Craig Barrett, had said that he would not expand
7 in the Silicon Valley.

8 MR. HARRIS: So there's a chance then it
9 can affect both new businesses and expansion of
10 existing businesses?

11 MR. CARRIER: Yes, there is.

12 MR. HARRIS: Did you analyze the
13 project's compliance with applicable laws,
14 ordinances, regulations and standards?

15 MR. CARRIER: Yes.

16 MR. HARRIS: And what was your finding
17 in that connection?

18 MR. CARRIER: It complies with all the
19 LORS.

20 MR. HARRIS: And you also had an
21 opportunity to analyze the project's -- the final
22 staff assessment's proposed conditions of
23 certification?

24 MR. CARRIER: Yes.

25 MR. HARRIS: And do you find those

1 conditions to be acceptable?

2 MR. CARRIER: Yes.

3 MR. HARRIS: Thank you. I'd like to
4 move to the second witness now, which would be Mr.
5 Crisp, who will present the environmental justice
6 direct testimony for us.

7 So, Mr. Crisp, would you again state
8 your name for the record?

9 MR. CRISP: Wynnlee Crisp.

10 MR. HARRIS: And could you please
11 briefly describe your qualifications?

12 MR. CRISP: Yes. My educational
13 background is a bachelor of science in biology and
14 chemistry. Master of science in natural resources
15 management. And an MBA in general management,
16 including statistical analysis.

17 I have 27 years experience in conducting
18 environmental impact analyses, both under the
19 California Environmental Quality Act and the
20 National Environmental Policy Act.

21 More specifically I've been providing
22 and conducting environmental justice analyses,
23 giving testimony and professional presentations,
24 since the issuance of executive order 12898,
25 environmental justice, which was issued in 1994.

1 MR. HARRIS: And did you also present
2 the environmental justice testimony for the Delta
3 Energy Center project before this Commission?

4 MR. CRISP: Yes.

5 MR. HARRIS: Thank you. Can you provide
6 us with a summary of your findings of your
7 environmental justice analysis?

8 MR. CRISP: Yes, my analysis
9 specifically addressed executive order 12898,
10 federal actions to address environmental justice
11 in minority populations and low income
12 populations.

13 That executive order states that each
14 federal agency shall make achieving environmental
15 justice part of its mission by identifying and
16 addressing disproportionately high and adverse
17 human health or environmental effects on minority
18 populations or low income populations.

19 My environmental justice analysis
20 indicates that first, the demographic composition
21 of the surrounding population doesn't constitute a
22 minority or low income population, as those terms
23 are defined.

24 And secondly, there are no high and
25 adverse impacts that affect the minority and low

1 income segment more than any other segment of the
2 population.

3 MR. HARRIS: In terms of the conditions
4 necessary for an adverse finding of noncompliance,
5 can you describe those conditions and explain your
6 analysis?

7 MR. CRISP: Yes, there are three
8 conditions that have to be met simultaneously to
9 make an adverse finding.

10 First, you have to have a minority or
11 low income population in the impact zone. In this
12 particular case the population in the impact zone
13 is far below 50 percent minority or low income.
14 Actually it's less than 27 percent minority and
15 about 5 percent low income according to the 1990
16 census.

17 The second condition that would have to
18 obtain in order to make an adverse finding is that
19 you would have to have a high and adverse impact.
20 Other experts have submitted documents and
21 testimony indicating that there are no
22 significant, unmitigated adverse environmental or
23 human health impacts. Except in two categories.

24 Two categories have been initially
25 determined to be significant impacts under CEQA.

1 Those are land use and visual impact. And I'll
2 address those as part of the third condition.

3 The third condition is that the impact
4 on the minority or low income population must be
5 disproportionately high and adverse. Since there
6 is no affected minority and low income population
7 in this case, there can't be a disproportionately
8 high and adverse impact on the minority and low
9 income population.

10 Secondly, those potentially significant
11 CEQA impacts that I mentioned, land use and
12 visual, don't accrue to a greater extent to the
13 minority and low income population than they do to
14 the non-minority and non-low income population.
15 Consequently, they can't be considered
16 disproportionately high and adverse on the
17 minority and low income population.

18 MR. HARRIS: So, those three steps, the
19 finding of the population, the impact and the
20 disproportionately high and adverse, the first
21 condition is not met according to your analysis,
22 is that correct?

23 MR. CRISP: That's correct.

24 MR. HARRIS: And that's kind of the
25 threshold for us, is that correct?

1 MR. CRISP: That's correct.

2 MR. HARRIS: Turning now to the phases
3 of your analytical process. Can you describe the
4 three phases of the analytical process that you
5 engaged in?

6 MR. CRISP: There are three key phases
7 of the analytical process, the first of which is
8 outreach and involvement of the potentially
9 affected minority and low income population.

10 And actually, activities were conducted
11 by both Calpine/Bechtel and by the California
12 Energy Commission Staff. These outreach and
13 involvement activities include things like mailed
14 notices to residences; preparation of fact sheets
15 in both English and Spanish; distribution of those
16 fact sheets door to door throughout the Coyote
17 Valley; providing Spanish-speaking interpreters
18 and resource people at hearings and open houses.

19 Articles in the local newspaper; coffees
20 within the community; mailed notices to property
21 owners proximate to the site; and hearings and
22 workshops held in the local community.

23 My conclusion is that both the extent
24 and the effectiveness of that outreach and
25 involvement program were appropriate for this

1 setting and for this particular type of project.

2 MR. HARRIS: Okay, so based upon the
3 combined outreach by the Commission and the
4 applicant and others, again your finding is that
5 it was an effective outreach program, is that
6 correct?

7 MR. CRISP: Yes.

8 MR. HARRIS: Can you talk about the
9 second level analysis, the screening level
10 analysis, please?

11 MR. CRISP: In the screening level
12 analysis the purpose is to determine whether a
13 finer level or a detailed analysis appears to be
14 warranted.

15 The first step in the screening analysis
16 is to determine whether a minority and low income
17 population, as those terms are defined, exists or
18 does not exist. And as I pointed out earlier in
19 this particular case, within the impact zone,
20 those populations do not exist.

21 It's at that point that you would
22 normally say the screening analysis is finished,
23 and there isn't an indication that it should be
24 studied further.

25 The second potential part of that

1 screening analysis, though, would be to determine
2 if high and adverse impacts are likely to fall
3 disproportionately on the minority and low income
4 population.

5 I mentioned earlier that the final staff
6 assessment identifies two categories of impacts
7 that were initially considered significant in CEQA
8 terms, which is not necessarily the same as high
9 and adverse in environmental justice terms. But
10 it's a good starting point.

11 Those two were visual impact and land
12 use. And I'd like to address those.

13 In terms of the visual impact, because
14 the plant site is located in a very narrow
15 viewshed, the visually impacted population is
16 overwhelmingly motorists that are using the
17 Monterey Highway.

18 While there are no data indicating the
19 demographic makeup of those motorists on the
20 highway, it's likely that they probably mirror
21 Santa Clara County, as a whole, which we've just
22 heard testimony that the County, as a whole, is
23 less than 50 percent minority.

24 Consequently, this visual impact doesn't
25 fall predominately or disproportionately on the

1 minority or low income fraction of the population.

2 Similarly, the zoning impacts and the
3 conversion of prime farmland are impacts that by
4 their very nature accrue to the general
5 population. Not to those living in proximity to
6 the site, nor to those traveling through the
7 corridor.

8 So these impacts that were determined to
9 be potentially significant under CEQA terms are
10 not the sort that can be said to
11 disproportionately affect any particular segment
12 of the population.

13 MR. HARRIS: So, what's your overall
14 conclusion there?

15 MR. CARRIER: Well, since no
16 disproportionately high and adverse impacts are
17 likely to result from the project, no further
18 evaluation would normally be conducted beyond the
19 screening level.

20 MR. HARRIS: That being the case, did
21 you go ahead and conduct a more detailed analysis
22 even though it wasn't indicated by the screening?

23 MR. CRISP: Yes.

24 MR. HARRIS: And what were your findings
25 there?

1 MR. CRISP: Even though the screening
2 analysis indicated that there wasn't a necessity
3 to go beyond that, I, nevertheless, conducted a
4 more detailed study.

5 In a more detailed study you look at the
6 population characteristics at a smaller level of
7 detail, so that you don't have the possibility
8 that gross generalizations cause you to miss
9 something important.

10 The other thing you do is you look at
11 the actual footprint of environmental impacts,
12 rather than in a broad one-mile, two-mile, three-
13 mile area, and see who was affected by each
14 particular type of impact.

15 MR. HARRIS: What were the demographic
16 characteristics of the population in this more
17 detailed analysis?

18 MR. CRISP: When you look at a more
19 detailed level, based on 1990 census data, the
20 population proximate to the plant, or within a
21 one-mile radius, is 19 percent minority and 5
22 percent low income.

23 Further out, in the general project
24 vicinity, that would be within a two-mile radius,
25 the population is 21 percent minority and 5

1 percent low income.

2 Within a zone that can be reasonably
3 expected to encompass all of the impacts, or a
4 five-mile radius, the population is 26 percent
5 minority and 5 percent low income.

6 MR. HARRIS: So your findings there with
7 this more detailed analysis, then?

8 MR. CRISP: Still far below the 50
9 percent threshold.

10 MR. HARRIS: And below for both minority
11 and low income, is that correct?

12 MR. CRISP: That's correct.

13 MR. HARRIS: What about the distribution
14 of impacts on minority and low income populations?

15 MR. CRISP: The impacts of the Metcalf
16 Energy Center, to the extent that they may exist,
17 are proposed to be mitigated to a level below
18 significance except as in the two cases that I
19 mentioned earlier, visual and land use.

20 I'd also mention that much interest has
21 been expressed in cultural resources. But based
22 on information and testimony that has already been
23 submitted, any anticipated impact on prehistoric
24 sites from the project would not result in
25 disproportionately high and adverse affects on

1 minority or low income populations, including the
2 American Indian population.

3 And the reason for that is because there
4 are no apparent archeological resources that would
5 be significantly impacted by the project.

6 MR. HARRIS: In your expert opinion,
7 from an environmental justice perspective, how
8 does this project compare to other major
9 infrastructured projects?

10 MR. CRISP: I've conducted environmental
11 justice analyses or advised or been senior
12 consultant on projects on both coasts, and
13 throughout much of the nation, energy projects,
14 transportation projects, solid waste disposal
15 projects, toxic and radioactive waste projects.
16 And honestly, this one falls down among those that
17 have the least potential for inconsistency with
18 the environmental justice executive order.

19 MR. HARRIS: Thank you. I would also
20 like you to comment on the NAACP endorsement
21 letter that we just passed out.

22 MR. CRISP: I think that's a further
23 indication that this particular project has no
24 potential for inconsistency with the environmental
25 justice executive order. The San Jose Branch of

1 the NAACP announced that it voted unanimously to
2 actively support the proposed Metcalf Energy
3 Center.

4 MR. HARRIS: Is this kind of endorsement
5 unusual?

6 MR. CRISP: In my experience it's very
7 unusual.

8 MR. HARRIS: You said very unusual.
9 Thank you.

10 Can you give us a bottomline summary of
11 your conclusions on the environmental justice
12 analysis, please?

13 MR. CRISP: Well, first the screening
14 level analysis indicated no apparent potential for
15 environmental justice issues. The more detailed
16 analysis verified that conclusion.

17 Further, based on my review of data and
18 impacts described by other experts in their filed
19 testimony the Metcalf Energy Center project will
20 not result in disproportionately high and adverse
21 impacts on the minority or low income population.

22 My conclusion then is this proposed
23 project is in compliance with the executive order
24 on environmental justice.

25 MR. HARRIS: Thank you, Mr. Crisp. I'd

1 like to move now to our third witness, Mr. Norm
2 Hulberg, on property value questions.

3 Mr. Hulberg, could you state your name
4 again for the record.

5 MR. HULBERG: Normal Hulberg.

6 MR. HARRIS: And could you describe your
7 qualifications for the Committee, please?

8 MR. HULBERG: I've worked for the past
9 25 years as a real estate appraiser. I carry the
10 certified general designation of licensing by the
11 State of California, which is the highest
12 designation. I'm an MAI, Member of the Appraisal
13 Institute.

14 My educational background includes a
15 bachelors degree in business concentrated in real
16 estate from San Jose State University. And an MBA
17 degree from San Jose State.

18 I'm president of Hulberg and Associates,
19 which is the largest appraisal firm in northern
20 California. Part of our work involves many
21 proximity studies that are analogous to the
22 Metcalf study we performed here, such a studying
23 the impact anticipated and actually occurring from
24 an adverse influence such as construction of a new
25 freeway, increase in airport noise, or development

1 of a new wastewater treatment facility.

2 MR. HARRIS: And what task were you
3 asked to perform on behalf of the project?

4 MR. HULBERG: I was asked to study
5 whether there had been or was likely to be an
6 adverse impact on home values, home prices in the
7 area near the Metcalf Energy Center.

8 MR. HARRIS: And in performing that
9 analysis did you do both a local study and a
10 national study of comparable energy centers?

11 MR. HULBERG: Yes, I did both.

12 MR. HARRIS: And what were your overall
13 findings, before we go into the details of those
14 studies?

15 MR. HULBERG: My overall findings were
16 that there had been no impact on property values
17 to date, and it was unlikely that there would be
18 any value impact in the future.

19 MR. HARRIS: Okay, thank you. Let's
20 turn now to the local study you performed. I
21 understand that you used several different
22 methodologies to do that local study. Can you
23 walk us through those methodologies?

24 MR. HULBERG: Well, briefly, the three
25 techniques that I used were, one, to look at

1 median and average prices in the areas immediately
2 next to the proposed plant, and then further
3 afield.

4 The second method was to look at matched
5 pairs, which is a standard appraisal technique, to
6 try to isolate the variable that's being studied.

7 And finally, I conducted a survey of
8 realtors that are active in the area.

9 MR. HARRIS: Let's turn to the first
10 study that you did, the comparison of median and
11 average prices. Can you describe that study for
12 us?

13 MR. HULBERG: Yes. I have an exhibit
14 here that's taken from my report that's shown on
15 the overhead, and I think we also have hard
16 copies.

17 MR. HARRIS: Passing out copies of the
18 overhead so you don't have to turn around, and
19 we'll give them to the staff and the intervenors,
20 as well. This may be easier to read.

21 MR. HULBERG: The designations that are
22 used on this exhibit are the same as used by the
23 San Jose Real Estate Board, and the designations
24 that are commonly known among the local
25 population, being that the Santa Teresa area is

1 the area where Metcalf Energy Center is located,
2 and the area just to the north where most of the
3 subdivision housing is located, on the other side
4 of Tulare Hill from Metcalf.

5 Then I also wanted to compare this with
6 an area that was essentially a control group that
7 was further afield, so I compared this with the
8 Blossom Valley district, which is a district
9 that's north of Santa Teresa area.

10 And then finally I compared this data
11 with the data that's shown in the light blue
12 color, Santa Clara, which is all of Santa Clara
13 County.

14 MR. HARRIS: So you compared essentially
15 then the Santa Teresa neighborhood to the Blossom
16 Valley and the rest of Santa Clara County?

17 MR. HULBERG: Exactly. It's like
18 comparing the study group with two control groups.
19 And the study was made, Metcalf was announced in
20 February 1999, and so I studied in this particular
21 chart a period that was extending before the
22 announcement back to June '98, and then continuing
23 on to the end of June 1999.

24 MR. HARRIS: Did you also update this
25 information recently, as well?

1 MR. HULBERG: Yes, I did another update
2 of this a year later in October 2000.

3 MR. HARRIS: Why don't you describe your
4 findings for us, please.

5 MR. HULBERG: The consistent findings
6 were that the -- now, this has been a very strong
7 period of property value increases for the entire
8 Bay Area, and probably most of California. But
9 what we would expect to see if Metcalf was having
10 an adverse impact, we'd expect to see a difference
11 in the rate of appreciation, or even a loss in
12 value perhaps, when compared to the control
13 groups.

14 The consistent result of this chart
15 shows that the Santa Teresa area, where Metcalf is
16 most likely to have an impact if it were to have
17 an impact, had the exact same rate of increase as
18 the adjacent Blossom Valley area, and the same
19 case as Santa Clara County in general.

20 So the conclusion of this median price
21 comparison, and I also did an average price
22 comparison, the clear conclusion here is that
23 Metcalf Energy Center did not have an adverse
24 impact on property values.

25 MR. HARRIS: Okay, that was your first

1 study, the comparison. You also performed a
2 matched pairs analysis. Can you describe that
3 analysis technique?

4 MR. HULBERG: Yes, the matched pair
5 method is a standard appraisal technique where the
6 appraiser is studying one variable that is desired
7 to be quantified.

8 For example, the appraiser wants to
9 study, let's say, how much a swimming pool is
10 worth in a certain area of San Jose, so the
11 appraiser will find a home of one particular type
12 that's under study. Let's say it's a three-
13 bedroom, two-bath, 1500 square foot home with a
14 swimming pool. And then find another sale of a
15 home that's as similar in all regards as possible
16 to that type that's being studied, a three-
17 bedroom, two-bath home, 1500 square feet, but
18 without a swimming pool.

19 And then compare the two sale prices
20 between those properties. And ideally, not just
21 looking at one matched pair, but as I did also in
22 this study, to look at several matched pairs.

23 So that was the technique used here of
24 studying the area that's closest to the Metcalf
25 Energy Center.

1 MR. HARRIS: And which two areas did you
2 analyze in this matched pair analysis?

3 MR. HULBERG: The neighborhood map
4 that's the next exhibit shows the area of
5 potentially the greatest concern that would
6 essentially be the closest to the Metcalf Energy
7 Center. It's right on the other side of Tulare
8 Hill, which is a 570-foot hill that separates the
9 Los Paseos neighborhood from Metcalf.

10 Los Paseos is a project built 28 years
11 ago by Ponderosa Homes, which is a well known
12 homebuilder in this area. They build average to
13 good quality homes.

14 I compared sales, matched pairs, in the
15 Los Paseos neighborhood to the control group
16 that's about three miles northwest of that
17 location in the Vista Park neighborhood that's
18 shown also on this map.

19 Vista Park being built at about the same
20 time by Arcadia, historically very similar
21 quality, very similar prices in the two locations.

22 MR. HARRIS: And what were your findings
23 in this matched pairs analysis?

24 MR. HULBERG: The consistent finding was
25 that there was no adverse impact found, no

1 differential in price between Los Paseos and Vista
2 Park.

3 And an example of this type of analysis
4 can be seen on the next exhibit, one of the
5 numerous sets that I studied, so that the home on
6 the left side is from the primary neighborhood
7 under study, Los Paseos. And the sale on the
8 right side is from the control group, the Vista
9 Park location.

10 And here then I've compared two very
11 similar homes, but there were slight differences
12 in the date of sale, slight difference in the
13 size, so that required an adjustment in that
14 regard.

15 So the ultimate conclusion from this one
16 set of matched pairs was that the sale price of
17 the Los Paseos home under study was \$326,500; the
18 indicated price in Vista Park was essentially the
19 same number, \$325,650, indicating no real
20 meaningful differential here.

21 And that was the same for each of the
22 matched pairs that were studied.

23 MR. HARRIS: Okay, just so we're clear,
24 Los Paseos is a subset of the Santa Teresa
25 neighborhood, is that correct?

1 MR. HULBERG: That's correct. Los
2 Paseos is one to one and a quarter miles from the
3 Metcalf site. It would be the first subdivision
4 as you head north. You go up the hill to go over
5 Tulare Hill, and then down the hill. When you get
6 to the bottom of the hill in the flat land, you're
7 in Los Paseos.

8 MR. HARRIS: Okay. And so your findings
9 were that there was no adverse impact on the sale
10 price, is that correct?

11 MR. HULBERG: That's correct.

12 MR. HARRIS: And what about any impact
13 on the marketing time or the pace of sale?

14 MR. HULBERG: I did also look at
15 marketing time because that can be one indicator
16 if there are fewer buyers looking at properties.
17 And there was no deleterious impact on the
18 marketing time.

19 MR. HARRIS: Okay, so no impact on sale
20 price or marketing time?

21 MR. HULBERG: That's correct.

22 MR. HARRIS: Let's go to the third local
23 survey. It was a realtor survey. Can you
24 describe that briefly for us?

25 MR. HULBERG: The third study was to

1 survey realtors that had listings and sales in the
2 areas closest to Metcalf. The Los Paseos area
3 that I mentioned a moment ago and the areas that
4 were shown on that map previously, the
5 neighborhood map, the new subdivisions called
6 Basking Ridge and California Maison.

7 And here the realtors were asked three
8 questions in our survey. First, did they disclose
9 the Metcalf Energy Center project as a part of the
10 sale of the home.

11 Secondly, did they find any impact on
12 the sale price of the house. And, finally, did
13 they find any impact on the marketing time of the
14 house.

15 MR. HARRIS: And the three areas you
16 compared again were the Los Paseos, which is a
17 subdivision of Santa Teresa, is that correct?

18 MR. HULBERG: That's correct.

19 MR. HARRIS: And the other two were?

20 MR. HULBERG: Basking Ridge and
21 California Maison, the last two being two new
22 subdivisions.

23 MR. HARRIS: And what were your findings
24 in this realtor survey, as well?

25 MR. HULBERG: Well, the findings are

1 summarized in the chart, which is a combination of
2 the three individual subneighborhood studies shown
3 here by Metcalf plant impact study.

4 Of course, there were some realtors that
5 didn't respond to the phone call. Those are on
6 the far left in the teal color. The next item is
7 ones that said there was an impact. None of the
8 realtors surveyed said that there was an impact on
9 price or marketing time.

10 The next chart, obviously the biggest
11 one is those that said there was no impact. And
12 then finally there's a small group that said that
13 they didn't know one way or the other.

14 MR. HARRIS: Okay, thank you. Moving
15 now from the local studies to the nationwide study
16 performed at comparable energy centers. As kind
17 of an opening can you tell us why you performed
18 such a study?

19 MR. HULBERG: Well, because Metcalf has
20 not yet been built, it's only possible to study
21 what the impact has been so far. And while that's
22 meaningful, I wanted to see once the plant is up
23 what might be the longer term effects of it
24 actually being there, and what would be the effect
25 after the publicity has settled in.

1 MR. HARRIS: And how was that study
2 conducted?

3 MR. HULBERG: Well, I used the same
4 essential technique as an appraiser would use in
5 any study. The appraiser, regardless of what
6 they're appraising, looks for the most similar
7 types of properties for comparison.

8 So, here I looked for other relatively
9 modern, gas fired power plants, and those ideally
10 that had the greatest number of locational
11 similarities to the San Jose plant.

12 So, properties that -- power plants, for
13 example, that were located in nothing but an
14 industrial neighborhood were not good examples and
15 those were rejected. Similarly, a power plant
16 that's in the middle of the desert really isn't a
17 very good subject for study comparing to the
18 Metcalf Energy Center.

19 So, from the centers that I studied I
20 selected four as being the most meaningful.

21 MR. HARRIS: So the selection was based,
22 then, on the land uses surrounding the project,
23 and not on the megawattage associated with the
24 plant, is that correct?

25 MR. HULBERG: That's right.

1 MR. HARRIS: So, you wouldn't look at a
2 plant in the desert. You wanted a plant in an
3 urban setting, so that was the comparison you were
4 drawing, is that correct?

5 MR. HULBERG: That's correct, always an
6 appraiser will try to get the highest degree in
7 comparability.

8 MR. HARRIS: Okay. What were the four
9 plants you looked at?

10 MR. HULBERG: I looked at Stony Brook in
11 New York; Bethpage in New York; Pittsfield,
12 Massachusetts, and Crockett, California. And the
13 next exhibit in the handouts here is a picture of
14 the plant that's in Stony Brook, New York.

15 MR. HARRIS: Did you use the same study
16 methods for this portion of your analysis, as
17 well?

18 MR. HULBERG: Yes, I used the same
19 method so we can see that on the next exhibit,
20 which is the final exhibit in the package.
21 There's a neighborhood map where we went to a
22 neighborhood that was relatively close to Stony
23 Brook.

24 MR. HARRIS: I'm sorry, this is a
25 neighborhood surrounding the Stony Brook facility,

1 is that correct?

2 MR. HULBERG: Yeah, this is a map of the
3 Stony Brook neighborhood in New York.

4 MR. HARRIS: Okay.

5 MR. HULBERG: And a neighborhood of
6 fairly homogeneous homes that were similar, in
7 fact, to the homes in San Jose in terms of their
8 style.

9 HEARING OFFICER VALKOSKY: I'm sorry,
10 sir, if you're going to speak you've got to use
11 the microphone.

12 SPEAKER: I'm sorry, I thought it said
13 40 megawatts. I wanted to be sure we were talking
14 megawatts here, as far as being similar.

15 HEARING OFFICER VALKOSKY: It does say
16 40 megawatts on the illustration for the cogen.

17 MR. HARRIS: Okay, you performed the
18 matched pair study here and the realtor surveys,
19 is that correct?

20 MR. HULBERG: Yes, the same surveys
21 again looking at the primary neighborhood and then
22 comparing them to the control neighborhood. The
23 same study that I did in San Jose.

24 MR. HARRIS: And what were your findings
25 there, as well?

1 MR. HULBERG: The same finding was the
2 result of these studies that there was no impact
3 on sale price or on the marketability found in
4 these four power plants.

5 MR. HARRIS: Okay, so the bottomline
6 conclusion from your analysis is then?

7 MR. HULBERG: The conclusion of the
8 study, then, both the local study and the national
9 study, was that there has been no impact so far as
10 a result of Metcalf, and it's not anticipated that
11 there would be an adverse impact on property
12 values.

13 MR. HARRIS: Thank you. Let's move on
14 to our fourth and final witness for this
15 presentation, Mr. Phil Hanser from the Brattle
16 Group.

17 So, Mr. Hanser, could you state your
18 name for the record, please?

19 MR. HANSER: Philip Hanser, H-a-n-s-e-r.

20 MS. WILLIS: Excuse me, before we go on.
21 I'd like to make a clarification on Mr. Hanser's
22 testimony.

23 MR. HARRIS: We're going to get there,
24 but go ahead.

25 MS. WILLIS: I'd like to do that before

1 he testifies --

2 MR. HARRIS: That's fine, that's fine.
3 We were going to get there.

4 MS. WILLIS: Would you like to clarify,
5 or would you -- or should I?

6 MR. HARRIS: Mr. Hanser has introduced a
7 report, a Brattle Group report, consumer
8 reliability benefits arising from Metcalf Energy
9 Center.

10 The first question I was going to ask
11 him is was he testifying to the entire report.
12 And the answer is no. He's speaking today about
13 sections 1 and 2 of that report related to market
14 price impacts.

15 The remainder of that report deals with
16 issues that are more properly set forth in the
17 local system effects testimony. So sections 3 on
18 of that report will not be discussed today.

19 Mr. Hanser will be coming back for the
20 local system effects portion of our presentation.
21 He will make himself available to answer questions
22 on that section 3, and in addition, if any parties
23 have questions on the sections 1 and 2 that result
24 from his testimony today, he will be here. He's
25 the author. He'd be agreeable to answering those

1 questions.

2 HEARING OFFICER VALKOSKY: Sufficient
3 clarification, Ms. Willis?

4 MS. WILLIS: Thank you.

5 HEARING OFFICER VALKOSKY: Okay,
6 proceed, Mr. Harris.

7 MR. HARRIS: Thank you.

8 So, Mr. Hanser, again your company
9 authored the report called, consumer reliability
10 benefits arising from the Metcalf Energy Center,
11 is that correct?

12 MR. HANSER: Yes.

13 MR. HARRIS: And you're here to speak
14 only about sections 1 and 2, is that correct?

15 MR. HANSER: Yes.

16 MR. HARRIS: Let's turn to the first
17 issue. I want to talk about -- actually, let's
18 not go to the first issue yet, let's get your
19 qualifications in the record.

20 Would you please briefly summarize your
21 qualifications for us?

22 MR. HANSER: Sure. I have over two
23 decades of work in the electricity utility
24 industry. I served as an economist and a
25 supervising economist at the Sacramento Municipal

1 Utility District for five years. During that time
2 I performed load forecasting studies, resource
3 planning studies, marginal cost studies. I was
4 involved in rate design and evaluation of demand
5 side management programs.

6 I also served as the witness for SMUD
7 before two common forecasting methodology
8 hearings, as well as two of the biennial report
9 process hearings.

10 After I left SMUD and worked at the
11 Electric Power Research Institute for ten years,
12 where I served as Project Manager and the Program
13 Manager of demand side management program at the
14 Electric Power Research Institute. That research
15 program included research involved in load
16 forecasting, resource planning, rate design
17 issues, efficiency benefits, environmental impacts
18 of electric technologies, and distributed
19 generation.

20 After leaving Electric Power Research
21 Institute I became a partner in the firm Putnam,
22 Hayes and Bartlett, and then subsequently the
23 Brattle Group. During that time I've served as an
24 expert witness before the Federal Energy
25 Regulatory Commission and the Public Utilities

1 Commission of New Mexico and Nevada and Wisconsin.

2 I've held academic positions at the
3 University of the Pacific in Stockton, California;
4 the University of California at Davis; and at
5 Columbia University in New York, where I earned my
6 graduate degrees in mathematical statistics and
7 economics. I've also lectured at the
8 Massachusetts Institute of Technology, given
9 seminars at the University of Chicago, and
10 lectured at Stanford University.

11 I served six years on the American
12 Statistical Association's Committee on Energy
13 Statistics.

14 MR. HARRIS: Thank you. Now, focusing
15 on your testimony related to reduction in
16 electricity prices, can you provide us with a
17 summary of what your findings were?

18 MR. HANSER: The report focused on three
19 areas, reduction of electricity prices, reduction
20 in transmission costs, and reduction in economic
21 losses associated with outages.

22 I'm only going to discuss the first one,
23 which is reduction of electricity prices, which,
24 corresponds to parts one and two of the report.

25 MR. HARRIS: What were your findings in

1 parts one and two of the report?

2 MR. HANSER: Well, we looked at two
3 periods. Historical period, the period June 1999
4 through May of 2000. And we estimated that if the
5 Metcalf Energy Center had been in existence during
6 that time period it would have reduced the price
7 of electricity -- it would have produced savings
8 to consumers in the order of about \$210 million.

9 We then examined the impact of the
10 Metcalf Energy Center with it being introduced in
11 the year 2003, and looked at its reduction in cost
12 to consumers through the year 2010.

13 We did so under a pair of different
14 scenarios provided by the California Energy
15 Commission. That produced a range of results
16 between \$1.2 billion and \$1.8 billion in savings
17 to consumers for that eight-year period.

18 MR. HARRIS: Okay, before we get into
19 the details of that analysis, one kind of
20 preliminary set of questions I want to go to is in
21 face of recent events affecting the power
22 exchange, the PX, there's been some question as to
23 whether your testimony is affected by the fate of
24 the PX. So that's my first question to you.

25 Is your testimony at all influenced by

1 the eventual fate of the PX?

2 MR. HANSER: No.

3 MR. HARRIS: And why is that analysis
4 not affected?

5 MR. HANSER: Well, there are a number of
6 different reasons, so let me explain. We use
7 prices that came from the California PX because it
8 offered a transparent set of prices as far as what
9 was clearing the electricity markets in
10 California.

11 As such, we could have used other forms
12 of prices, power market -- indices or whatever.
13 But at the time and up until recently the
14 California PX's prices were considered indicative
15 of what was going on, not only in California, but
16 were used as an indices throughout the western
17 United States.

18 We chose also a time period in which we
19 felt we could make a reasonable argument that they
20 represented quote-unquote normal prices for the
21 California electricity market. June of 1999
22 through May of 2000. Prior to the time in which
23 prices were run up considerably during the summer
24 and then subsequently the kind of turmoil we've
25 seen in the markets recently.

1 Thirdly, the day-ahead market which the
2 California PX represented will continue probably
3 in some form or another. The APX continues to
4 exist, and it provides a mechanism by which
5 purchasers can go to a market and purchase in the
6 day-ahead market.

7 We also know that in other markets in
8 the northeast United States, for example the
9 Pennsylvania, New Jersey, Maryland interchange,
10 known as PJM, or the New York ISO, or the ISO of
11 New England, all those have markets with day-ahead
12 markets of some form or another.

13 And thus it's likely that even if the
14 California PX doesn't exist as it is right now,
15 somebody will take up the gauntlet to provide a
16 day-ahead market.

17 And then lastly, to the extent that the
18 markets were operating in some reasonable fashion
19 at that time period, it should be the case that
20 the bilateral contracts that were at the time
21 being exchanged among parties probably had prices
22 that were fairly similar to the California PX's
23 prices.

24 If that weren't the case there would
25 have existed the opportunity for profitable

1 arbitrage between the markets. And if the
2 profitable arbitrage were pursued by parties,
3 those price differences would go away.

4 MR. HARRIS: So the bottomline is then
5 your analysis is not PX dependent, is that
6 correct?

7 MR. HANSER: No, it's not dependent on
8 the existence of the PX.

9 MR. HARRIS: And the PX was simply a
10 convenient and transparent market price for you,
11 is that correct?

12 MR. HANSER: Exactly.

13 MR. HARRIS: Let's turn now to the
14 assumptions in your analysis. Would you
15 characterize those assumptions as being
16 conservative?

17 MR. HANSER: We tried to be as
18 conservative as possible in terms of calculating
19 the likely savings associated with Metcalf Energy
20 Center.

21 MR. HARRIS: Did you avoid using recent
22 price spikes in your analysis?

23 MR. HANSER: Yes, as I've already
24 stated, we avoided the period beginning in June of
25 this past year until now.

1 MR. HARRIS: If you had used those
2 recent price spikes, would the benefits have been
3 greater?

4 MR. HANSER: Yes. We did a preliminary
5 estimate about the likely impact of using those
6 prices and it would essentially double or more
7 than double the likely benefits associated with
8 the Metcalf Energy Center.

9 MR. HARRIS: So by omitting the recent
10 price spikes you very likely have understated the
11 benefits, is that correct?

12 MR. HANSER: That would be my
13 assumption.

14 MR. HARRIS: Okay. Let's turn now to
15 the period of June 1999 through May of 2000. You
16 did an analysis of the unconstrained market price.
17 And before we get there can you explain to those
18 of us with -- backgrounds what an unconstrained
19 market price is?

20 MR. HANSER: Sure. The way the
21 California PX operated was that scheduled,
22 balanced schedules generally were presented to the
23 California PX for the purpose of meeting supply
24 and demand.

25 The California PX would essentially add

1 up all the set of demands and add up all the set
2 of supplies, and you would find a price that in
3 essence cleared the market.

4 That schedule of supply was then
5 submitted to -- and that price that cleared the
6 market was called the unconstrained market
7 clearing price.

8 That schedule was then submitted to the
9 California ISO for verification that in fact that
10 the transmission system could support the transfer
11 of power on the system to provide that price.

12 In the times when that was not the case
13 the regions of the California market would
14 separate, and there would be separate prices
15 representing the prices that could clear the
16 market in those separate regions. Those are
17 called the constrained market prices.

18 MR. HARRIS: So the unconstrained market
19 price is a generally accepted analytical tool for
20 your profession, is that correct?

21 MR. HANSER: Yes. In general, the
22 unconstrained market price tended to be lower than
23 the constrained market price associated with NP15
24 since the majority of the time when constraints
25 have operated the NP15 constrained market price

1 exceeded the OMCP -- NP --

2 MR. HARRIS: So that would be another
3 element of conservatism in your analysis, is that
4 correct?

5 MR. HANSER: Yes.

6 MR. HARRIS: And you did a comparison
7 then of the market prices with and without the
8 Metcalf project?

9 MR. HANSER: Right. We took the Metcalf
10 Energy Center and inserted it, in essence, into
11 the supply schedule that existed in the time
12 period June '99 through May of 2000, to see what
13 generation would be displaced by it.

14 We used -- although the Metcalf Energy
15 Center is rated at 600 megawatts, in discussions
16 with Calpine/Bechtel engineers, we de-rated the
17 unit to 539 megawatts, because that's the level of
18 continuous operation that Metcalf can effectively
19 and efficiently provide throughout the entire
20 year.

21 We then looked at the change in the
22 price that would have cleared the market --

23 MR. HARRIS: Would you also -- excuse
24 me, Phil. Did you also analyze the availability
25 of the facility, as well?

1 MR. HANSER: Yes. Range of availability
2 that's been assessed for the Metcalf Energy Center
3 is between 92 and 98 percent. We used the lower
4 value of 92 percent in computing in the
5 availability of the plant.

6 MR. HARRIS: So both in terms of rated
7 capacity and availability you used the lower end
8 numbers, is that correct?

9 MR. HANSER: That's right.

10 MR. HARRIS: And those are conservative
11 estimates?

12 MR. HANSER: I would assume so.

13 MR. HARRIS: Okay, continue.

14 CHAIRMAN KEESE: What was your
15 availability number?

16 MR. HANSER: 92 percent.

17 MR. HARRIS: Go ahead and continue,
18 Phil.

19 MR. HANSER: We then calculated the --
20 given the quantity of energy that crossed the
21 market each time period, we then calculated what
22 the total savings would be hour-by-hour throughout
23 the course of the year. And added that all up for
24 the time period June 1999 to May 2000.

25 And that number turns out to be about

1 \$210 million.

2 MR. HARRIS: So, \$210 million with an
3 "m", right?

4 MR. HANSER: Yes, 210 with an "m".

5 MR. HARRIS: And that's for the period
6 June of 1999 to May of 2000?

7 MR. HANSER: That's right.

8 MR. HARRIS: Did you also then analyze
9 the potential effects of Metcalf on market prices
10 from 2003 to 2010?

11 MR. HANSER: Yes.

12 MR. HARRIS: And what were your findings
13 there, as well?

14 MR. HANSER: Well, what we did was
15 operate in two separate phases of it. The first
16 was to take the demand that we witnessed in the
17 years in the '99 to 2000 timeframe and project it
18 forward.

19 For that we used the California Energy
20 Commission's projections of energy demand for 2000
21 to 2010.

22 We then took the California Energy
23 Commission's projections for likely supply, that
24 were really developed in a document which looked
25 at alternative prices under differing market

1 scenarios, resource plan scenarios.

2 That document talks about two different
3 scenarios, a cautious development scenario in
4 which approximately 9100 megawatts of new capacity
5 within California is added. And that capacity is
6 added over the time period basically 2000 through
7 2010. The majority of it occurring sort of spaced
8 out evenly in the 2003 to 2010 timeframe.

9 And we had a second scenario which was a
10 rapid development scenario in which the majority
11 of the 9100 megawatts of new capacity was added in
12 the years 2002 and 2003. We then modified the
13 supply curve for the PX as of that June '99
14 through May 2000 timeframe to incorporate the
15 capacity additions that were incorporated -- that
16 were developed in those two scenarios, to examine
17 what the difference in prices would be under the
18 two scenarios given the projection of demand.

19 MR. HARRIS: So using those demand and
20 supply analyses, what were your findings?

21 MR. HANSER: What we found was that for
22 the cautious development scenario the savings --
23 the discounted present value of the savings for
24 the period 2003 to 2010 was approximately \$1.8
25 billion with a "b" dollars.

1 For the rapid development scenario the
2 savings were about \$1.2 billion.

3 MR. HARRIS: So the range there, \$1.2
4 billion to \$1.8 billion, depending on how rapidly
5 the development scenarios --

6 MR. HANSER: Exactly.

7 MR. HARRIS: Okay, thank you. And
8 that's a net present value number, is that
9 correct?

10 MR. HANSER: That's right. We
11 discounted back the time periods 2003 to 2010, so
12 it represents about a little less than a third of
13 the entire lifetime of the plant which we expect
14 to be approximately 30 years. So we only looked
15 at eight of those 30 years in terms of the
16 savings.

17 MR. HARRIS: And in coming up with those
18 numbers, the 1.2 billion to 1.8 billion, did you
19 rely on the recent price spikes?

20 MR. HANSER: No, no. Again, as we said
21 earlier, the information we used was for a time
22 period in which, on average, prices during that
23 time period averaged something on the order of
24 about \$33 a megawatt hour, which is considerably
25 lower than the prices that we have seen recently.

1 MR. HARRIS: Okay, so again you used a
2 conservative set of assumptions in terms of price?

3 MR. HANSER: Yes.

4 MR. HARRIS: What's your overall
5 conclusion, then, from your analysis?

6 MR. HANSER: It appears that the Metcalf
7 Energy Center has a potential for producing
8 significant energy saving consumer benefits in the
9 market were it to be introduced according to its
10 current schedule, under either a scenario in which
11 there's rapid development of new generation, or
12 under a scenario in which the development of new
13 generation enters the California market is fairly
14 slow.

15 MR. HARRIS: Thank you. I have one more
16 question for Mr. Carrier before I make the
17 witnesses available for cross-examination.

18 Mr. Carrier, you can answer on behalf of
19 the panel. If any members of the panel disagree
20 they're requested to please speak up.

21 Mr. Carrier, did the panel have a chance
22 to review the testimony submitted by the Santa
23 Teresa Group and the Swim and Racquet Club?

24 MR. CARRIER: Yes.

25 MR. HARRIS: And does that testimony in

1 any way change the conclusions of the panel?

2 MR. CARRIER: No, it does not.

3 MR. HARRIS: Okay, thank you very much.

4 If it's appropriate at this point I'd like to move
5 the documents that we identified earlier into
6 evidence.

7 HEARING OFFICER VALKOSKY: You can
8 specify which documents, Mr. Harris?

9 MR. HARRIS: It would be exhibit 78,
10 which is one of the new ones; exhibit 79; and
11 exhibit 81. And the remainder of our group 2B
12 testimony, I guess all of 2B testimony, which is
13 exhibit 10.

14 HEARING OFFICER VALKOSKY: Okay. Is
15 there objection?

16 MS. WILLIS: Actually, yes. I'd like to
17 object to the moving in of appendix C until after
18 the LSE testimony.

19 HEARING OFFICER VALKOSKY: Appendix C of
20 exhibit 10?

21 MS. WILLIS: Of exhibit 10.

22 MR. HARRIS: That's fine, that's
23 appropriate, I think, as well.

24 HEARING OFFICER VALKOSKY: Okay, so --

25 MR. HARRIS: We'll hold back --

1 HEARING OFFICER VALKOSKY: -- would you
2 rather hold back on the entirety of 10.

3 MR. HARRIS: Let's hold the whole thing,
4 let's hold the entire thing. That's probably
5 easier than trying to bisect it out. That's
6 appropriate.

7 HEARING OFFICER VALKOSKY: Okay, so all
8 we're talking about now is exhibits 78, 79 and 81,
9 is that correct?

10 MR. HARRIS: Correct.

11 HEARING OFFICER VALKOSKY: Okay, is
12 there objection? No objection, they're admitted.

13 MR. HARRIS: I'd make the witnesses
14 available for cross-examination.

15 HEARING OFFICER VALKOSKY: Before we
16 begin cross, a couple of small questions.

17 EXAMINATION

18 BY HEARING OFFICER VALKOSKY:

19 Q Mr. Crisp, page 5 of your testimony,
20 under the paragraph headed graphic characteristics
21 of the population, you indicate that a five-mile
22 radius zone can be reasonably expected to
23 encompass all the impacts.

24 Can you explain to me why it's a five-
25 mile zone, for example, as opposed to the six-mile

1 zone which I believe staff uses?

2 MR. CRISP: Any of those zones are
3 arbitrary radii. EPA uses a five-mile zone when
4 they publish the toxic resources inventory
5 information relative to minority populations.

6 I also looked at a six-mile radius. The
7 conclusion is the same.

8 HEARING OFFICER VALKOSKY: Okay, thank
9 you. One question for Mr. Hulberg. I'm sorry,
10 I've gotten Mr. Hulberg and Mr. Hanser,
11 unfortunately, confused.

12 MR. HANSER: I'm Hanser, he's Hulberg.

13 HEARING OFFICER VALKOSKY: Mr. Hanser.
14 On pages 2 and 3 of your testimony you indicate
15 that the Metcalf project would contain potential
16 benefits for the California electricity market.

17 How am I to interpret that phrase? Is
18 that -- there's several ways to do it. That is, a
19 market existing in the State of California, or
20 power which will be dedicated to the State of
21 California?

22 MR. HANSER: I would view it as power
23 that's dedicated to the State of California.

24 HEARING OFFICER VALKOSKY: Dedicated to
25 the State of California. So your contention is

1 that all the power from the proposed Metcalf
2 Energy Center would be used in the State of
3 California?

4 MR. HANSER: Well, my analysis assumes
5 that all the power that comes from the Metcalf
6 Energy Center would be used in the State of
7 California, yes.

8 HEARING OFFICER VALKOSKY: Thank you,
9 sir. Ms. Willis.

10 MS. WILLIS: I just have a few questions
11 for Mr. Hulberg. Staff would like to reserve the
12 right to cross-examine Mr. Hanser later, during
13 the LSE testimony.

14 HEARING OFFICER VALKOSKY: That right
15 will be reserved, as it will for all the parties.

16 MS. WILLIS: Thank you.

17 CROSS-EXAMINATION

18 BY MS. WILLIS:

19 Q I just had a few questions of
20 clarification on your overheads on set one for the
21 paired cells analysis, I noticed the sale dates
22 for both the Los Paseos property is 3/99, and for
23 Vista Park is 1/99.

24 Isn't it true that the AFC for this
25 project wasn't filed until April of 1999?

1 MR. HULBERG: I think that's correct,
2 however the project was widely announced, quite
3 widely known in February.

4 MS. WILLIS: In February, so the first
5 sale is in January, which was before the project
6 was actually announced.

7 MR. HULBERG: Yes, in the Vista Park,
8 the control neighborhood. The sale in the Los
9 Paseos neighborhood is after the project
10 announcement.

11 MS. WILLIS: But before the project was
12 actually filed with the Energy Commission. I
13 guess the question I have is through your study
14 how aware were the buyers and sellers of this
15 proposed project?

16 MR. HULBERG: I think that would depend
17 on from one sale to another, and I don't frankly
18 recall on these particularly. I have a record but
19 I don't recall on these particular ones.

20 In general, the realtors that we
21 surveyed and the buyers and sellers in turn, in
22 most cases were aware of the project, but not in
23 all cases.

24 MS. WILLIS: Do you have any figures on
25 which --

1 MR. HULBERG: I don't --

2 MS. WILLIS: -- how many people were
3 aware of the project? I think that's an important
4 question --

5 MR. HULBERG: Yes, I don't have a figure
6 on how many buyers and sellers who were aware, but
7 the exhibit that I did show as to the realtors,
8 which tend to be generally more aware of the
9 project, it's their duty to disclose something
10 that they think would have an adverse impact.
11 That was the next exhibit that was shown.

12 MS. WILLIS: And do you know if the
13 realtors did disclose this project to all the
14 potential buyers and sellers in this area?

15 MR. HULBERG: That was a question that
16 we asked, and some of the realtors answered that
17 they felt they did not need to disclose it since
18 it did not, in their opinion, have an impact.

19 But the majority of realtors did
20 disclose it, did discuss it with the buyers and
21 sellers.

22 MS. WILLIS: Now, in your updated study
23 from I believe it's October?

24 MR. HULBERG: Correct.

25 MS. WILLIS: You only have three paired

1 sales, is that correct?

2 MR. HULBERG: Yes.

3 MS. WILLIS: I'm not familiar with this
4 type of study. Is that a normal or an average
5 number of sales that indicates -- it doesn't sound
6 like very many sales. I'm just trying to find
7 out, is that the normal number of sales that would
8 be normally paired to determine impact?

9 MR. HULBERG: Yes, in this type of
10 study. But, of course, this was done as a
11 supplement to the study that was done a year
12 prior.

13 MS. WILLIS: Right, before the AFC was
14 filed. I guess I'm trying to find out, as you
15 updated your study after this project became more
16 publicized, did you have any -- is three sales a
17 normal number to pair to determine the impact of a
18 project this size?

19 MR. HULBERG: Yes, particularly as to
20 doing a supplement in one of several methods. But
21 also I have to clarify another aspect. You
22 mentioned the AFC being filed in April of '99, but
23 my first study was done in October '99. So it was
24 done well after that filing. And then the update
25 study was done in October 2000.

1 MS. WILLIS: Right, thank you. Thank
2 you.

3 HEARING OFFICER VALKOSKY: Is the City
4 of Morgan Hill present? Ms. Dent, anything from
5 the City of San Jose?

6 PRESIDING MEMBER LAURIE: Ms. Dent,
7 before you get started, why don't you come on up,
8 because I just have a question or two.

9 EXAMINATION

10 BY PRESIDING MEMBER LAURIE:

11 Q Mr. Hulberg, do you have an opinion on
12 the issue of disclosure radius. What are the
13 criteria? Is this something that you can offer an
14 opinion on? What do you believe the criteria to
15 be regarding real estate disclosures?

16 MR. HULBERG: Well, that really is more
17 a legal question. And I know the legal test,
18 because I deal frequently with this, is something
19 that a buyer would reasonably want to know that
20 would probably -- would likely have an effect on
21 property value.

22 PRESIDING MEMBER LAURIE: And could that
23 be subjective, and so you cannot establish a
24 specific radii that will determine a rule in this
25 case?

1 MR. HULBERG: Yes, I think that's true.
2 I think you're going to have different realtors
3 and different attorneys that are going to have
4 different opinions.

5 And similarly, you're going to have
6 different potential buyers and sellers that are
7 going to have varying opinions.

8 PRESIDING MEMBER LAURIE: In your
9 experience is there a difference -- could there be
10 a difference in potential buyer response from a
11 facility that is already built, as opposed to a
12 speculative facility that is not yet built?

13 MR. HULBERG: Yes, potentially yes.
14 That's a good question. I think I have a two-part
15 answer in that regard.

16 One is that generally in real estate the
17 biggest impact is during the time of greatest
18 uncertainty. You see this, for example, with
19 contamination. When we don't know how bad
20 something is, we don't know how bad this Metcalf
21 plant might be. If there's going to be an impact
22 usually we see the biggest impact during the fear
23 period.

24 And as more information becomes known,
25 then we'll see a lessening of an impact. Perhaps

1 getting back to no impact, or maybe still staying
2 as an impact. That's one part of the answer.

3 The other answer was that was exactly
4 why I went and looked at those four other existing
5 plants, was to try to isolate and eliminate that
6 variable.

7 PRESIDING MEMBER LAURIE: Thank you.
8 Mr. Crisp, sir, how many environmental justice
9 analyses have you done in California?

10 MR. CRISP: More than a dozen, I don't
11 know the exact number. Either done or advised or
12 participated in, or acted as senior consultant on.

13 PRESIDING MEMBER LAURIE: And in all of
14 your environmental justice work, have you denoted
15 a difference between California environmental
16 justice issues and other state environmental
17 justice issues because of the impact of the
18 state's stringent CEQA analysis? Does that make a
19 difference? Has that impacted your environmental
20 justice determinations?

21 MR. CRISP: No, except to the extent
22 that through the CEQA analysis there is a
23 determination made of what are significant impacts
24 and what are not.

25 In states that don't have an

1 environmental quality act like California,
2 sometimes that determination is never made.

3 PRESIDING MEMBER LAURIE: Thank you.
4 That's all I have.

5 HEARING OFFICER VALKOSKY: Ms. Dent.

6 CROSS-EXAMINATION

7 BY MS. DENT:

8 Q I have a question first, I believe, for
9 Mr. Carrier regarding the socioeconomic impact on
10 the City's hazardous materials incident team, the
11 team for hazmat response out of the fire stations
12 to Metcalf Energy Center.

13 And would like to have you indicate
14 whether you think there is an impact in terms of
15 the response time that that team would have to the
16 Metcalf Energy Center inasmuch as the team is
17 about 10 or 15 miles from the site.

18 MR. CARRIER: When I talked with the
19 representative from the hazardous incident team
20 they did not seem to have any concerns about the
21 distance. They said that it, in fact, was
22 irrelevant. That they looked to the local fire
23 station to be the first responders. And that's
24 why they only have one incident team in all of San
25 Jose.

1 They're located in north San Jose
2 primarily because more industry is up here, but
3 they don't feel a need to be scattered throughout
4 the City.

5 MS. DENT: But the City did, in its
6 comments, ask for that a new fire station be
7 provided in Coyote Valley because of Metcalf
8 Energy Center, as well as other development down
9 there, is that accurate?

10 MR. CARRIER: Yes.

11 MS. DENT: And did you discuss
12 specifically with them the need for hazmat
13 response from that fire station, from the new fire
14 station?

15 MR. CARRIER: No.

16 MS. DENT: Okay, thank you. I have a
17 couple questions for Mr. Hulberg. Mr. Hulberg, if
18 I understood your testimony you first conducted a
19 matched pair study for two San Jose neighborhoods
20 in December of 1999. And how many matched pairs
21 were there in that study?

22 MR. HULBERG: It was October of '99, and
23 as I recall I think that there were six matched
24 pairs.

25 MS. DENT: And then there were three

1 matched pairs in the subsequent October 2000
2 update?

3 MR. HULBERG: Correct.

4 MS. DENT: And how does that compare to
5 the number of sales that were occurring in those
6 neighborhoods in that timeframe? What size sample
7 is that compared to the number of sales that were
8 occurring?

9 MR. HULBERG: As I recall, I think that
10 during the six-month period I think that there
11 were, and I might be wrong about this, I think
12 there were 16 sales in Los Paseos during that time
13 period.

14 But, of course, this is one reason why I
15 not only looked at the matched pairs, but also the
16 median price and average price measures, so I
17 could look at all of the sales in Santa Teresa and
18 Blossom Valley.

19 MS. DENT: But out of 16 sales during
20 the first timeframe you looked at six of them.
21 Out of -- how many sales then had occurred in the
22 subsequent timeframe, do you know, when you only
23 looked at three?

24 MR. HULBERG: I don't recall, but you
25 can't look at all of them because you can't find a

1 good matched pair for all of those sales. So that
2 would throw your result way off.

3 MS. DENT: And now what went into your
4 selection of the neighborhood that you matched
5 with the Los Paseos neighborhood? There's a lot
6 of neighborhoods in San Jose. What went into your
7 selection of the Vista Park neighborhood?

8 MR. HULBERG: Several factors. I wanted
9 to find a neighborhood that was sufficiently far
10 away to potentially be away from the immediate
11 Metcalf effect, yet not so far away, such as 20
12 miles away, that maybe have a completely different
13 kind of commute pattern, demographic employment
14 pattern and so forth.

15 Secondly, I wanted to find homes that
16 were of similar quality and the Arcadia homes in
17 the control group and the Ponderosa homes were
18 very similar. Similar style homes, similar price,
19 and ones that had historically sold for similar
20 prices.

21 MS. DENT: Now, the Vista Park
22 neighborhood in the San Jose real estate community
23 is known to have some problems with soil
24 conditions, particularly with cracking foundations
25 and soils that expand and contract with water.

1 Are you aware of that?

2 MR. HULBERG: Some parts of Vista Park,
3 yes.

4 MS. DENT: So that's a factor in the
5 Vista Park neighborhood that doesn't exist, as far
6 as you know, in the Santa Teresa neighborhood?

7 MR. HULBERG: That exists with some
8 homes in Vista Park. None of the ones that were
9 studied, to my knowledge, had that. But,
10 certainly each neighborhood has, you know, one's
11 closer to the Safeway store than the other. Each
12 one has certain variables.

13 MS. DENT: So that's part of the problem
14 in doing a matched pair analysis, is really having
15 two pairs to really match up and be side by side?

16 MR. HULBERG: That's correct, that's why
17 ideally the appraiser wants to look at more than
18 one matched pair, as I did, in more than one
19 technique, which is why I used three techniques.

20 MS. DENT: Going to your analysis of the
21 other power plant locations, what were the --
22 again, I'm sorry -- what were the sizes of the
23 facilities that were studied for those other power
24 plants?

25 MR. HULBERG: Stony Brook is 40

1 megawatts. Bethpage is 57. Pittsfield 165. And
2 Crockett 240.

3 MS. DENT: So you didn't study any other
4 power plant of the size of Metcalf Energy Center?

5 MR. HULBERG: I didn't find any others
6 that were the size of Metcalf that were in
7 analogous locations, but that's not really the key
8 component for comparison, because the public
9 doesn't drive by one power plant and say, that one
10 looks like a 600 megawatt, but that one looks like
11 300.

12 The more relevant measures probably are
13 in the NOx emissions, or in the physical
14 appearance of the plant.

15 MS. DENT: Now, were the other power
16 plants that you studied in that analysis located
17 in California?

18 MR. HULBERG: Crockett was. The others
19 were not in California.

20 MS. DENT: And were you studying with
21 respect to those other power plants the impact
22 that a built plant had on property values, as
23 opposed to the effect that an anticipated plant
24 had on property values?

25 MR. HULBERG: Yes. The short answer to

1 that question is that's correct, although also in
2 surveying the realtors, in some cases we've had
3 realtors that have been active in the neighborhood
4 during the entire period, so we were able to
5 obtain some information on the entire historical
6 value trend as a result of the power plant.

7 MS. DENT: So, in looking at the other
8 power plants, though, you didn't actually visit
9 the neighborhoods that were set up as matched
10 pairs, did you, for those power plants?

11 MR. HULBERG: Yes, we did.

12 MS. DENT: Your firm did?

13 MR. HULBERG: Yes.

14 MS. DENT: And are you familiar with the
15 areas then in the Stony Brook area -- you don't
16 have a photograph of the neighborhoods for the
17 Stony Brook area.

18 MR. HULBERG: Well, I don't know if that
19 projector will -- I have them with me, I don't
20 know whether that will project a non-opaque, I
21 don't think so.

22 MS. DENT: And this is again for a 40
23 megawatt cogeneration plant on a university
24 campus?

25 MR. HULBERG: That's correct.

1 MS. DENT: And do you have any idea
2 whether or not the visibility of this facility or
3 the bare impacts of this facility are anywhere
4 similar to the Metcalf?

5 MR. HULBERG: Yes, I have a good idea of
6 that. Stony Brook, the NOx emissions are 147 tons
7 per year, which compares to 124 or 126 for
8 Metcalf. So Metcalf will be 15, 20 percent less.

9 In terms of the visibility from nearby
10 residences, Stony Brook is more visible. You have
11 to recall that Metcalf, most of the residents,
12 with the exception of a few farmhouses nearby,
13 there is a Tulare Hill that's in between. So
14 Stony Brook is actually much more visible.

15 MS. DENT: What about the plume from
16 Metcalf Energy Center versus visible plume --

17 MR. HARRIS: I'm going to object on the
18 basis she's assuming --

19 MS. DENT: I'm asking him if he knows
20 about it.

21 MR. HARRIS: You're asking him to assume
22 a plume is what I heard.

23 HEARING OFFICER VALKOSKY: Let's have
24 the question --

25 MS. DENT: Okay, let's assume there is

1 one. Hypothetically, if there's a plume from
2 Metcalf Energy Center, do you know whether or not
3 there's a plume from Stony Brook that's visible to
4 residences further away?

5 MR. HULBERG: No, I don't know. That
6 didn't, no one raised that issue as part of the
7 study.

8 MS. DENT: I have a few questions for
9 the gentleman on -- Hansen -- Mr. Hansen?

10 MR. HANSER: Hanser.

11 MS. DENT: Thank you. Hansler?

12 HEARING OFFICER VALKOSKY: Hanser.

13 MS. DENT: Hanser, I'm sorry. I'll get
14 it right.

15 MR. HANSER: That's all right.

16 MS. DENT: And I will -- I do want to
17 reserve the right to ask some questions later, but
18 I specifically have some questions on parts one
19 and two.

20 HEARING OFFICER VALKOSKY: When you say
21 later, you mean during the transmission system
22 engineering --

23 MS. DENT: Right. Correct.

24 HEARING OFFICER VALKOSKY: Okay, fine.

25 MS. DENT: When the rest of the

1 testimony is going to come in.

2 I was a little confused in reading parts
3 one and two of your report, just from the
4 standpoint of trying to understand the relevance
5 of the report to socioeconomics, because the area
6 that has been defined for socioeconomics study is
7 the San Jose metropolitan statistical area, or the
8 County of Santa Clara.

9 And so I was trying to see in your
10 report, and I realize today the portion of the
11 report that you're talking about is only prices.
12 But I was trying to see in your report how your
13 report really had anything to do with impacts on
14 consumers or on prices, or on any aspect of energy
15 in just the San Jose metropolitan statistical
16 area, as opposed to the entire State of
17 California.

18 So, maybe you can enlighten me a little
19 bit on that?

20 MR. HANSER: Well, let me see if I can
21 answer that. We've actually estimated the likely
22 impacts for consumers within the Santa Clara
23 County area, we allocated the likely savings that
24 would result.

25 I didn't discuss that here because

1 that's really part of later transmission system
2 and local system effects, and so I chose not to.

3 So there is an estimate of the likely
4 effects that would accrue specifically to Santa
5 Clara. There's also an estimate of likely
6 impacts, for example, improved reliability if you
7 looked at a single incident in which there was a
8 rolling blackout in that area, which would likely
9 be, would have been abated by the existence of the
10 Metcalf Energy plant.

11 So there are a number of measures that
12 we used to estimate precisely the impact on Santa
13 Clara.

14 More generally, and it's already been
15 alluded to, there are issues having to do with
16 economic development that are associated with
17 Metcalf Energy Center that have specific impact to
18 the Santa Clara Valley and, quote-unquote, the
19 Silicon Valley area in general. Those were not
20 discussed either because we're at this point in
21 time only -- reserve that for the LSE/TSE
22 discussion.

23 MS. DENT: Okay, well, let me ask this
24 another way. If Metcalf Energy Center is built
25 consumers in the San Jose metropolitan statistical

1 area aren't going to see any price breaks that
2 other northern California consumers see, are they?

3 MR. HANSER: That's not true.

4 MS. DENT: So if I pay my --

5 MR. HANSER: Why did you assert that?

6 MS. DENT: -- if I pay my bill to PG&E
7 down in Santa Teresa, is somebody that pays a bill
8 to PG&E in Brisbane going to pay a different bill
9 because of Metcalf Energy Center?

10 MR. HANSER: Well, to the degree that
11 PG&E is buying this power on the California
12 market, and those prices are lowered, those will
13 be passed on to the consumers as lowered prices.

14 MS. DENT: To all consumers?

15 MR. HANSER: Yes, and a portion of that
16 will go specifically to Santa Clara County and the
17 consumers within Santa Clara --

18 MS. DENT: Correct, they'll receive the
19 same price break that other consumers would
20 receive, that's your analysis?

21 MR. HANSER: That's my analysis.

22 MS. DENT: Now, with respect --

23 HEARING OFFICER VALKOSKY: Excuse me,
24 Ms. Dent. Mr. Hanser, could you speak more
25 directly into the microphone.

1 MR. HANSER: Oh, I'm sorry.

2 HEARING OFFICER VALKOSKY: Thank you.

3 MS. DENT: Now, with respect to the so-
4 called price break that California consumers will
5 receive with the new energy center, there are
6 other energy centers obviously on the horizon as
7 well as Metcalf Energy Center, including some
8 under construction right now.

9 MR. HANSER: Right.

10 MS. DENT: So we can accrue the same
11 price break to California --

12 MR. HANSER: No.

13 MS. DENT: -- consumers from other
14 energy centers?

15 MR. HANSER: No. In fact, we took
16 account of that by including in the resource plan,
17 the capacity expansion plan the California Energy
18 Commission put forward, it's both rapid
19 development and it's cautious development.

20 The Metcalf Energy Center is not
21 included in either of those scenarios. And so as
22 a result it, as a plant, has those benefits that
23 are accrued to it in this report.

24 Further, the other centers that others
25 have talked about are not likely to be in place

1 and operating in as short a time period as the
2 Metcalf Energy Center. So it's unlikely to see
3 those same benefits from others.

4 MS. DENT: I thought there were four
5 projects currently under construction including --

6 MR. HANSER: Yes, and they will provide
7 relief to the California market. And there are
8 other projects that are in the works, and they
9 were discussed in the California Energy Commission
10 report.

11 But this particular plant was not
12 included as a resource in the California Energy
13 Commission's forecast of future resources. And
14 so, as such, the benefits that accrue to this
15 plant are --

16 MS. DENT: Okay, I want to talk for a
17 minute, then, and I think this is the appropriate
18 place to talk, because again it gets to the issue
19 of whether or not there's some particular
20 socioeconomic benefit to the San Jose metropolitan
21 statistical area for Metcalf Energy Center.

22 About the difference between the need
23 for some transmission system upgrades locally and
24 the need for power generation locally. Are you
25 aware of not only the need for, but pending

1 applications to the CPUC for transmission system
2 upgrades for the San Jose area?

3 MR. HANSER: I could defer that question
4 until the later hearings. But I am aware of those
5 upgrades. But that's really a question to be
6 posed at the TSE/LSE meeting which will occur, I
7 guess, in two weeks.

8 MS. DENT: So we'll defer the question
9 then about the tradeoff between transmission
10 system upgrades and local power generation to a
11 later point in time.

12 MR. HANSER: Yes.

13 MS. DENT: Now, in terms of the Metcalf
14 Energy Center, I'm still trying to understand why
15 Metcalf Energy Center power plant in that
16 particular location has some special benefit, I
17 guess would be the best way to put it, to use
18 probably language that Mr. Hulberg is more used
19 to, some special benefit to --

20 MR. HANSER: Again, I think that's a
21 question that's best posed for the hearing that's
22 associated with the local system effects and the
23 transmission system effects.

24 That's not a discussion that's supposed
25 to go on, if my understanding at this point --

1 MS. DENT: So it's not a price-related
2 issue, then?

3 MR. HANSER: It is, in part, a price-
4 related issue. And it's also, in part, a
5 reliability-related issue. And it's, in part, an
6 economic effects of having a plant at that
7 location. But it is location-specific, and as
8 such, I think it really belong in that other
9 hearing.

10 MS. DENT: All right, thank you, we'll
11 wait for that.

12 HEARING OFFICER VALKOSKY: Thank you,
13 Ms. Dent.

14 I note Mr. Wade is not present. Mr.
15 Williams is not present.

16 Dr. Wiktorowicz.

17 DR. WIKTOROWICZ: Thank you. Could I
18 just spend a few moments with Professor, I guess,
19 Hanser, it is? Just to clarify in my mind, and
20 from my naive perspective.

21 CROSS-EXAMINATION

22 BY DR. WIKTOROWICZ:

23 Q Your point was that the California
24 consumers will gain a benefit of between 1.2 and
25 1.8 billion over a seven-year or eight-year

1 interval starting in 2003 from the siting of --
2 from generation of power from the Metcalf Center?

3 MR. HANSER: That's right.

4 DR. WIKTOROWICZ: That's correct. Now,
5 could you quantify for me the specific benefit as
6 it relates to the specific siting of this power
7 plant in the Metcalf area?

8 MR. HANSER: Again, I'd like to postpone
9 any of that discussion --

10 DR. WIKTOROWICZ: I would like to make
11 the point that that's not your decision to make.
12 That that's the Hearing Officer's decision to rule
13 on the relevance of that question.

14 MR. HANSER: It's already been -- I'm
15 sorry. That portion of my testimony has already
16 been asked by the members of the --

17 DR. WIKTOROWICZ: I'm asking for a
18 clarification. I didn't quite understand your
19 answer.

20 PRESIDING MEMBER LAURIE: I believe the
21 question is proper. You're talking about
22 socioeconomic benefit. The question is can you
23 define the specific price benefit to the local
24 community based upon the specific location of this
25 plant.

1 If you can, great. If you can't, then
2 the answer is that you can't.

3 MR. HANSER: There are specific benefits
4 that are associated with this plant at this
5 specific location. They're discussed in my
6 report. That portion of my report has been
7 postponed to a later hearing. I --

8 PRESIDING MEMBER LAURIE: Okay, you
9 cannot segregate your specific pricing benefit
10 from the remainder of your report?

11 MR. HANSER: Can I --

12 PRESIDING MEMBER LAURIE: Can you
13 summarize it?

14 MR. HARRIS: If I may interject. The
15 witness is able to answer. I think the hesitancy
16 is that he thinks the agreement is that he's not
17 supposed to. And so, if you asking him can he
18 answer, the answer is yet.

19 DR. WIKTOROWICZ: But he made a specific
20 point. I think we have the right to ask for
21 clarification --

22 PRESIDING MEMBER LAURIE: Okay, sir,
23 your argument is with us. On the table is the
24 question of benefit versus detriment to the
25 community. We're talking about socioeconomics.

1 So, to the extent that your witness
2 indicates that there is a pricing benefit to the
3 community, then I think the question is relevant.

4 MR. HANSER: All right. We did an
5 estimate of -- there are a number of different
6 kinds of benefits in that regard. So we can just
7 talk a little bit about it now, but my concern is
8 that there are lots of issues associated with the
9 local system effects, and with transmission system
10 effects.

11 PRESIDING MEMBER LAURIE: Okay, sir,
12 your testimony went to pricing benefits and
13 specifically or directly or indirectly directed to
14 the community. That's what your testimony was.
15 And that's your purpose for being here. So, --

16 MR. HANSER: If I look only at the
17 greater -- the estimate that we have come up with
18 for the value of the reduction in prices,
19 depending on whether we're looking at a rapid
20 deployment or new capacity or the slow deployment
21 of new capacity, is between about \$200 million and
22 about \$300 million. That's the greater Bay Area.

23 Specifically allocated to the Santa
24 Clara County, the MPV of those price savings is
25 somewhere between \$76- and \$115 million.

1 DR. WIKTOROWICZ: But that is the
2 addition of 600 megawatts to the general grid that
3 accrues to Santa Clara County, or is it the
4 location at the MEC substation that accrues to
5 Santa Clara County?

6 MR. HANSER: There are -- that's a very
7 difficult question to answer for the following
8 reasons. There are specific reliability benefits
9 that are associated with the impact of having a
10 plant located at that particular point in terms of
11 the capability to deliver power into northern
12 California, that are going to be discussed in the
13 LSE and TSE hearing.

14 Yes, they are unique to the fact that
15 that plant is located at that point. I am not
16 qualified, at this point, to discuss the
17 transmission and other benefits that will likely
18 impact from an electrical system perspective of
19 placing the plant there.

20 But, I can say that it is a function of
21 the unique siting of that plant at that location.
22 That's why I would prefer to say anything beyond
23 that to be postponed until the LSE/TSE hearing.

24 PRESIDING MEMBER LAURIE: Okay, well,
25 Doctor, I think the testimony we have at this

1 point is that the witness has indicated there is
2 benefit, but the record will reflect that there's
3 no evidentiary support for that at this time.

4 So, I would ask you to just go ahead.

5 DR. WIKTOROWICZ: Thank you. Okay. I
6 would like to address the next questions to Norm
7 Hulberg. And actually Mr. Carrier, as well, in
8 particular to this first question.

9 In your estimation how important is the
10 socioeconomic issue in the consideration of the
11 siting plant relative to some of the other issues
12 as those that were enumerated by the staff in
13 their major issues report of 1999?

14 MR. CARRIER: I'm not sure I understood
15 the question. Relative to what?

16 DR. WIKTOROWICZ: Relative to the other
17 issues that were identified in the major issues
18 report submitted by the staff in July of 1999. Is
19 it equal relevance, or is it less relevance?

20 MR. CARRIER: I don't remember which
21 issues they raised in that report because it's so
22 long ago, but socioeconomic is kind of unique
23 among all the other disciplines in that it is
24 usually the only single discipline that has a
25 potential to have a positive impact on the

1 community as opposed to an adverse impact on the
2 community, which is what the finding was here, is
3 it will have a financial benefit to the community.

4 Specifically from the property taxes and
5 sales taxes. It will not be significant because
6 of the size of the local economy, but it will be a
7 benefit.

8 DR. WIKTOROWICZ: Did you say that it
9 would not provide a disadvantage?

10 MR. CARRIER: Right, typically as
11 opposed to other disciplines which usually are
12 identified as having potentially adverse impacts,
13 socioeconomics generally has a result of having a
14 positive benefit to the community, because of
15 taxes generated from sales tax and property tax by
16 a project.

17 There are also potential negatives, but
18 the benefits are generally positive in
19 socioeconomics.

20 DR. WIKTOROWICZ: So is the fact or the
21 observation that there are greater positive
22 benefits than dis-amenities, or negative benefits,
23 is that an important consideration of
24 socioeconomic issues and how that relates to the
25 siting plant?

1 MR. CARRIER: It's important to me, but
2 it's the Commissioners that weigh it.

3 DR. WIKTOROWICZ: Do you have in your
4 mind what level of dis-amenity would cause you not
5 to recommend siting? What level of --

6 MR. CARRIER: What dis-amenity --

7 DR. WIKTOROWICZ: Dis-amenity means
8 disadvantage.

9 MR. CARRIER: I still don't understand
10 what you're asking.

11 DR. WIKTOROWICZ: If there are
12 disadvantages to the community from a siting that
13 are relevant to a socioeconomic perspective, do
14 you have a sense in your mind as to what levels
15 would warrant a recommendation of not siting at
16 that site?

17 MR. CARRIER: No, I've never run into
18 that.

19 DR. WIKTOROWICZ: Okay, Mr. Hulberg,
20 once again, just to clarify, you used the February
21 announcement date as essentially a T-zero for your
22 real estate analyses? That is houses that were
23 sold before late February were considered to be
24 before the announcement, and afterwards -- after,
25 it was the February announcement that is your T-

1 zero, is that correct?

2 MR. HULBERG: That's correct.

3 DR. WIKTOROWICZ: Okay. How many
4 individual realtors did you speak to?

5 MR. HULBERG: I don't have the exact
6 number with me here, but I think it's about 60.
7 That's in terms of San Jose. And in addition, the
8 other four locations that were studied.

9 DR. WIKTOROWICZ: Okay. Do you know how
10 many of those were responsible for multiple sales
11 that were recorded in your analysis?

12 In other words, how many, for example,
13 in your realtors surveys, how many comments were
14 included from a single realtor?

15 MR. HULBERG: Each of the 60 that I
16 mentioned was one realtor, so that if that one
17 realtor had multiple sales it would have been one
18 realtor.

19 DR. WIKTOROWICZ: I see. If I totaled
20 the total number of survey sales at Los Paseos,
21 Basking Ridge and the others, I find 67 total
22 responses. Does that mean that maybe it was 67
23 individual realtors?

24 MR. HULBERG: That might be.

25 DR. WIKTOROWICZ: Okay. The reason for

1 that, of course, is that if one realtor is asked
2 the same question for two different houses, he's
3 likely to answer the same for both.

4 MR. HULBERG: One would hope so.

5 DR. WIKTOROWICZ: Okay. So, I just
6 wanted to make sure that there were 67 independent
7 analyses there.

8 Is it true that your analysis examined
9 only houses that were sold? Or appeared on the
10 MLS?

11 MR. HULBERG: Yes, to the extent that
12 ones that were data points, although to some
13 extent in surveying realtors one would also pick
14 up realtor comments that are, you know, plus or
15 minus. But the answer is yes.

16 DR. WIKTOROWICZ: So if a house didn't
17 sell over the timeframe of your analysis because
18 of, for example, the rumor of MEC, you wouldn't
19 see it, would you?

20 MR. HULBERG: Yes, in theory that's a
21 correct statement. But this is such a strong
22 period in real estate that any home that didn't
23 sell in this time period must have had a lot of
24 problems.

25 DR. WIKTOROWICZ: Okay, but you don't

1 note any of those in your analyses, in your
2 compendium of individual sales?

3 MR. HULBERG: That's correct. I'm
4 highly doubtful that there is such a sale.

5 DR. WIKTOROWICZ: Is it safe to assume
6 then that your analysis is biased towards houses
7 that sold within a specific timeframe, as you just
8 mentioned?

9 MR. HULBERG: The study is not biased.
10 The study is designed to exactly study homes that
11 did sell within the time period, the design.

12 DR. WIKTOROWICZ: So the time period
13 specifically is how many months?

14 MR. HULBERG: The time period in the
15 median price study is July through June '99; and
16 then June '99 through September of 2000.

17 The realtor survey was, as I recall I
18 think it was February, yes, it was February
19 through late September of 1999.

20 DR. WIKTOROWICZ: But only if a house
21 appeared as either being sold or a sales pending
22 did you tabulate it?

23 MR. HULBERG: That's correct. I think
24 it's highly doubtful that there were homes that
25 were reasonably priced during this period that

1 didn't sell.

2 DR. WIKTOROWICZ: Given the number of
3 pair-wise analyses you've done, and the number of
4 individual listings in your interviews, would you,
5 in your expert opinion would you state that these
6 are statistically significant numbers?

7 MR. HULBERG: Well, that depends on what
8 one means by statistically significant.

9 DR. WIKTOROWICZ: As an expert in real
10 estate appraisal is it statistically significant -
11 -

12 MR. HULBERG: Absolutely. These are
13 exactly the methods that appraisers use that are
14 published in appraisal texts that are taught in
15 appraisal classes.

16 Particularly the use of three separate
17 methods in one location, and then extending that
18 into four additional locations, yes.

19 DR. WIKTOROWICZ: So what specific
20 statistical parameters did you measure besides
21 median and average price?

22 MR. HULBERG: Those were the measures.

23 DR. WIKTOROWICZ: Those were the
24 measures?

25 MR. HULBERG: Yes.

1 DR. WIKTOROWICZ: Were you able to
2 calculate standard deviation, confidence interval,
3 any of those measures that might imply a goodness
4 of fit of your trend lines, or anything else of
5 that sort?

6 MR. HULBERG: There was an additional
7 study that was done, based on my study, that was
8 done by the consulting firm of MQ that looked at
9 some of those measures.

10 DR. WIKTOROWICZ: Is that part of the
11 record anywhere?

12 MR. CARRIER: Yes, it is.

13 DR. WIKTOROWICZ: Could you direct me to
14 that?

15 MR. CARRIER: Their studies are in set
16 1F of our data responses. It's in response to
17 data request number 70. And there are three
18 appendices that were called attachment SO-70A, and
19 then 70B and 70C. I think those are the ones
20 you're referring to.

21 HEARING OFFICER VALKOSKY: Has that been
22 identified as an exhibit?

23 MR. CARRIER: Exhibit 47.

24 HEARING OFFICER VALKOSKY: Exhibit 47?

25 Thank you.

1 DR. WIKTOROWICZ: Okay, thank you for
2 that.

3 So if we could move now to your survey
4 of Los Paseos, for example. I count a total of 25
5 transactions, is that correct?

6 MR. HULBERG: I don't recall what the
7 number is.

8 DR. WIKTOROWICZ: Do you have that?
9 It's on page 20A, which is the unnumbered page
10 after page 20 in your proximity study, proposed
11 Metcalf Center, dated October 11, 1999.

12 MR. HULBERG: Yes, without counting
13 them, that looks to be approximately correct.

14 DR. WIKTOROWICZ: Okay, I've taken the
15 liberty of tabulating the responses and please
16 correct me if I'm wrong in any of my tabulations.

17 How many of those realtors that you
18 surveyed indicated that they did disclose and also
19 had no impact on the housing prices?

20 I can save you some time. You can check
21 it. I found six.

22 MR. HULBERG: Just glancing at it, that
23 looks like that's probably on the right order,
24 yes.

25 DR. WIKTOROWICZ: Okay, yet on your bar

1 graph, the one you showed, let's see, -- this is
2 on page 23A, the Los Paseos Metcalf Plant impact
3 study. Page 23A is the unnumbered page after 23.

4 MR. HULBERG: Yes.

5 DR. WIKTOROWICZ: Are you there?

6 MR. HULBERG: Yes.

7 DR. WIKTOROWICZ: How many do you show
8 as having no impact?

9 MR. HULBERG: It's about 41 or so.

10 DR. WIKTOROWICZ: No, I'm talking about
11 the specific Los Paseos Metcalf Plant impact
12 study, page 23A.

13 MR. HULBERG: Sixteen.

14 DR. WIKTOROWICZ: Yeah, looks like about
15 17.

16 MR. HULBERG: Or 17, probably.

17 DR. WIKTOROWICZ: Yeah. Is it safe to
18 assume that the additional 12 came from those from
19 which there was no disclosure and no impact?

20 MR. HULBERG: I'm sorry, I didn't
21 understand the question.

22 DR. WIKTOROWICZ: I've divided your
23 responses into four categories. Those that were
24 addressed before the announcement in February.
25 Those for which there was no response. Those for

1 which there was no disclosure, no impact. And
2 those for which there was a disclosure and no
3 impact.

4 So, if I can fill in the blanks there,
5 do you agree that six indicated a disclosure but
6 no impact. But yet your bar graph shows 17 no
7 impacts.

8 And I'm proposing that the additional
9 discrepancy is due to the tabulation in that
10 column of those who had no disclosure and no
11 impact.

12 So I think that -- my point is that the
13 graph is misleading. It doesn't represent the --
14 Mr. Hulberg's own data.

15 PRESIDING MEMBER LAURIE: Let's wait and
16 see what his response is.

17 DR. WIKTOROWICZ: Okay, all right, I'm
18 sorry.

19 MR. HULBERG: Can I ask you to repeat
20 the question? You lost me --

21 DR. WIKTOROWICZ: Yeah.

22 MR. HARRIS: -- through four different
23 variations here, I'm sorry.

24 DR. WIKTOROWICZ: Okay, well, let me
25 just summarize for you.

1 MR. HARRIS: Just actually repeat the
2 question, if you would.

3 DR. WIKTOROWICZ: Okay. My question is
4 that since Mr. Hulberg agreed that in the survey
5 of sales from the Los Paseos tabulation six showed
6 a disclosure accompanied with no impact on the
7 housing price. Yet, in his bargraph on page 23A
8 he shows 17 that say no impact.

9 I'm asking the question is the
10 discrepancy between the six and the 17 due to the
11 inclusion in that category of those that did not
12 disclose, and have no impact.

13 MR. HULBERG: I think the answer is
14 found on the bottom of page 20, that the survey
15 shows that there's 20 closed sales, four active
16 listing and one pending sale. And that's the base
17 for those numbers.

18 And I believe if you add up those
19 numbers that gives you the same number as the
20 number that are on the chart on page 23A.

21 DR. WIKTOROWICZ: Okay. Well, I've done
22 that and I find 12 of those surveys stating they
23 did not disclose and there was no impact. Six
24 showed that they did disclose and there was no
25 impact.

1 My question to you is can you
2 rationalize why or how a realtor would state that
3 there was no disclosure, but therefore there was
4 no impact?

5 MR. HULBERG: No, that's not an accurate
6 statement of what a realtor would have said in
7 that regard. What a realtor would have said in
8 that regard, and did say, was that they believed
9 that there was no impact, therefore they did not
10 disclose.

11 Any realtor schooled in California law
12 knows that if there's something that's reasonably
13 likely to cause an impact, that it's their legal
14 duty to make such a disclosure.

15 DR. WIKTOROWICZ: So then are you saying
16 that 67 of the realtors that you surveyed actually
17 felt that there might be an impact and therefore
18 did not disclose it?

19 MR. HULBERG: Well, you're getting me
20 with a few too many numbers here, so I don't know
21 what the number is. We've gone around times,
22 but --

23 DR. WIKTOROWICZ: Sorry, they're your
24 numbers.

25 MR. HULBERG: -- but the answer -- well,

1 you've had the advantage of spending a little more
2 time on the specific number out of a much longer
3 report.

4 But, yes, the overwhelming majority of
5 realtors felt that there was not likely an impact
6 by the --

7 DR. WIKTOROWICZ: Then why didn't they
8 disclose?

9 MR. HULBERG: Realtor's duty is to call
10 the attention to things that are likely to cause a
11 problem, not to make a disclosure that there might
12 be a warming of the earth by a tenth of a degree
13 over the next century to take a --

14 DR. WIKTOROWICZ: Well, --

15 MR. HULBERG: -- example.

16 PRESIDING MEMBER LAURIE: We're going
17 beyond --

18 DR. WIKTOROWICZ: This is a circular
19 argument here.

20 PRESIDING MEMBER LAURIE: The question
21 has been asked, why no disclosure. The answer has
22 been because realtors disclose that which they
23 believe is an issue.

24 The testimony is that in the opinion of
25 this witness those that did not disclose would not

1 have done so because they did not believe it to be
2 an issue.

3 Whether or not you believe that or not
4 is beside the point. That's the witness'
5 testimony.

6 DR. WIKTOROWICZ: And I don't claim to
7 disbelieve or not believe, I'm simply pointing out
8 that it's a circular argument.

9 PRESIDING MEMBER LAURIE: Okay.

10 DR. WIKTOROWICZ: Okay, and I don't want
11 to belabor this point, but I think it's very
12 important because Mr. Hulberg did bring these
13 graphs and show them in front of the Commission --

14 PRESIDING MEMBER LAURIE: You're
15 entirely able to do that, sir.

16 DR. WIKTOROWICZ: Thank you. Regarding
17 the Basking Ridge survey of sales, if we can move
18 to that, that's page 22A.

19 Are you there?

20 MR. HULBERG: Yes.

21 DR. WIKTOROWICZ: Okay. Can we do the
22 same tabulation here? It's a little easier
23 because in this case you have four listings that
24 had sale dates that predated the announcement. I
25 can show you those. You just go through the sales

1 date, it's very simple.

2 Four of them were before. And three
3 there was no response?

4 MR. HULBERG: That's correct.

5 DR. WIKTOROWICZ: And seven showed no
6 impact.

7 MR. HARRIS: Before what? I'm sorry,
8 I'm confused.

9 DR. WIKTOROWICZ: Before the
10 announcement of the --

11 MR. HARRIS: What are you considering --

12 DR. WIKTOROWICZ: Metcalf --

13 MR. HARRIS: What are you considering
14 the announcement, the AFC filing, or the --

15 DR. WIKTOROWICZ: No. What Mr. Hulberg,
16 himself, stated was the announcement on
17 February --

18 MR. HARRIS: Okay, so it's not the AFC
19 date you're referring to?

20 DR. WIKTOROWICZ: Obviously not. His --

21 MR. HARRIS: It wasn't obvious to me.
22 Thank you for the clarification.

23 DR. WIKTOROWICZ: Okay.

24 MR. HULBERG: I think also, to be clear,
25 I think you misstated what is shown on the chart

1 on page 21A. There are two, if I'm reading this
2 correctly, I believe I am, that indicated no
3 response, not three.

4 DR. WIKTOROWICZ: 21A? That's
5 California Maison. We can do that one, that's
6 fine.

7 MR. HULBERG: Pardon me.

8 DR. WIKTOROWICZ: Let's do that one. I
9 missed it, I'm sorry. Good point.

10 California Maison. One is before, the
11 date is January 26, 1999. There are eight total,
12 two of no response; three didn't disclose; and two
13 showed no financial impact.

14 So, two out of the eight showed no
15 financial impact, without having disclosed. So
16 I'm jus summarizing these data so that -- the
17 point I want to make here at the end is the
18 following, for you -- if I can just find
19 myself --

20 MR. HARRIS: Can I ask, is there a
21 question coming, or --

22 DR. WIKTOROWICZ: Yes, --
23 (Parties speaking simultaneously.)

24 MR. HARRIS: All right.

25 PRESIDING MEMBER LAURIE: Mr. Harris,

1 we're doing fine. And if you have objections
2 please refer them to the Committee.

3 DR. WIKTOROWICZ: Okay, -- I'm trying to
4 find the summary. Sorry about this. Okay, I'm
5 just going to leave it and go to my next point.

6 Would you agree or not agree that in
7 general these listings are roughly similar from
8 one area to the next?

9 MR. HULBERG: No. California Maison and
10 Basking Ridge are new projects. And Los Paseos is
11 a 28-year-old project.

12 DR. WIKTOROWICZ: So, a comparison of
13 one to the other wouldn't necessarily be an
14 appropriate comparison to make?

15 MR. HULBERG: Well, depends on what
16 you're comparing. That's --

17 DR. WIKTOROWICZ: Okay, fair enough,
18 fair enough. If I took, for example, within the
19 survey of sales of Los Paseos and examined the
20 average house price before the announcement with
21 the average house price that you've quoted in
22 here, after the announcement, would you be
23 interested in those results?

24 MR. HULBERG: Not at all. I'd have to
25 look at that and see if you found that before the

1 announcement that the three sales, to make the
2 simple example, were 2000 square foot models, and
3 the three sales after the announcement happen to
4 be 1500 square foot models, of course you're going
5 to see a difference.

6 DR. WIKTOROWICZ: So, in other words I
7 would have to have a much better statistical
8 number in order to make any significant judgment
9 on those sales?

10 MR. HULBERG: As you posed the question
11 to me. It would depend on what the question is
12 that's posed to the analyst.

13 DR. WIKTOROWICZ: Well, let me just
14 point out for you and ask you to respond. If you
15 averaged the number of sales quoted before the
16 announcement in Los Paseos, that average price is
17 308,000. If you averaged the sales after it's
18 337,000, so one could reasonably assume that
19 within the simple analysis there was an increase
20 in housing sale prices at Los Paseos after the
21 announcement.

22 MR. HARRIS: I don't have an objection,
23 but I have a question. Are you --

24 DR. WIKTOROWICZ: Asking for his
25 response.

1 MR. HARRIS: My question is which page
2 of the testimony are you citing to?

3 DR. WIKTOROWICZ: I'm citing the survey
4 of the sales on page 28.

5 MR. HARRIS: 28, thank you.

6 MR. HULBERG: I'm sorry, what was your
7 question?

8 DR. WIKTOROWICZ: So I would like your
9 response, tell me if you feel there's any
10 significance to the fact that in the survey of
11 sales for Los Paseos the average house price
12 before the announcement is 308,000, from your
13 list. And after the announcement is approximately
14 337,000. So there's an increase.

15 MR. HULBERG: As you've posed your
16 question I find no significance to that.

17 DR. WIKTOROWICZ: Okay. Would you also
18 find no significance to the observation that in
19 the survey of sales for Basking Ridge, pre-
20 announcement the average price is 480,000 and
21 post-announcement is 443,000, a net decrease of
22 40,000?

23 MR. HULBERG: Same answer.

24 DR. WIKTOROWICZ: Okay. And finally, in
25 terms of Vista Park, the control neighborhood, the

1 average price before the announcement is 380,000,
2 and the average price after the announcement is
3 381,000.

4 MR. HULBERG: Same answer.

5 DR. WIKTOROWICZ: -- control.

6 MR. HULBERG: Same answer.

7 DR. WIKTOROWICZ: Okay, so based on
8 these facts, how would you apply any significance
9 to any analysis that utilized these survey
10 results?

11 MR. HULBERG: Because there's much more
12 data that's available to be looked at. That's
13 exactly why I looked at both the median price
14 studies and the average price of Santa Teresa
15 versus Blossom Hill versus Santa Clara County.

16 Now, if you're going to use that type of
17 statistic, to use an average, then one's much
18 better off to use a much larger number of data
19 points.

20 And the same as the question that was
21 posed to me, if instead of the numbers, and I
22 don't recall what they were, being let's say four
23 sales before and four after, the subdivision was
24 so large that there were 200 sales before and 200
25 after, well, now, that would be much more

1 interesting.

2 DR. WIKTOROWICZ: But those community
3 analyses you just quoted were submitted later.
4 This is the analysis that was submitted on October
5 11th, and that's the one I'm addressing here.

6 And your conclusions from this analysis
7 was there was no effect. So, are you saying then
8 that you needed to rely on that subsequent
9 analysis in order to come to that conclusion?

10 MR. HULBERG: No, that's an incorrect
11 statement. I did that study in October 1999, and
12 I did the same study again in October 2000.

13 DR. WIKTOROWICZ: But it is not quoted
14 in this document.

15 MR. HULBERG: It's right out of this
16 report. That's the exhibit that was shown on the
17 overhead projection that was provided with a copy
18 of --

19 DR. WIKTOROWICZ: The only exhibits I
20 find here are the bargraphs that show the various
21 neighborhoods of California Maison, Los Paseos,
22 the control group Vista Park, those are the only
23 analyses that I find in this --

24 MR. HULBERG: The page doesn't have a
25 number on it because it's an insert, but the pages

1 after page 24, so if you go to about five pages
2 after that, or counting a different way, go to
3 page 25 and go back, you'll see the average price
4 comparison.

5 DR. WIKTOROWICZ: Oh, I see that.

6 MR. HULBERG: The page before that is
7 the median price comparison, which was the same
8 copies that were submitted to the hearing here,
9 and the same one on the overhead projection.

10 DR. WIKTOROWICZ: Okay. All right. We
11 can get into those issues in a minute. Let me
12 just end this discussion of the survey with your
13 combined Metcalf plant impact study bargraph on
14 page 23D.

15 And that, I assume, is a summary of all
16 of your surveys?

17 MR. HULBERG: Correct.

18 DR. WIKTOROWICZ: The no impact bar
19 shows roughly 41, 42, is that correct?

20 MR. HULBERG: Yes.

21 DR. WIKTOROWICZ: Would you please take
22 some time, at some point in time, to eliminate
23 those for which there was no disclosure and judged
24 no impact.

25 MR. HULBERG: Do you want me to go out

1 in the hall and come back in a half hour, is that
2 what --

3 DR. WIKTOROWICZ: That's okay, I can do
4 it for you. There were 17. In other words, there
5 were 17 that disclosed and had no impact. But
6 you've noted 42. So I'm assuming that once again
7 you've included those for which there was no
8 disclosure?

9 MR. HULBERG: Yes, this is a realtor
10 survey. This is not a buyer survey. So that in
11 the case of realtors that were surveyed that said
12 that in their opinion there was no impact and they
13 did not disclose, that's what the --

14 DR. WIKTOROWICZ: Right.

15 MR. HULBERG: -- source is for the data
16 here.

17 DR. WIKTOROWICZ: Okay. That's our
18 circular argument.

19 Okay, moving to your most recent
20 analysis, that's the data response 70, set 1N.
21 That's this most recent one.

22 In the figure on page 12A, which is your
23 regression analysis of median home prices, or I
24 shouldn't say it's regression analysis. I'm
25 asking what statistical test was applied to

1 generate the trend line?

2 MR. HULBERG: The regression analysis.

3 DR. WIKTOROWICZ: Can you tell me what
4 the correlation coefficient of this regression
5 analysis was?

6 MR. HULBERG: No, I don't know what it
7 is.

8 DR. WIKTOROWICZ: Can you give me any
9 parameter at all regarding the goodness of the fit
10 of this regression analysis?

11 MR. HULBERG: I don't know what it is.

12 DR. WIKTOROWICZ: I see. So there's no
13 way to judge basically whether this trend line
14 truly reflects a linear relationship between time
15 and price? It could be a second order
16 relationship or anything else?

17 MR. HULBERG: It's a program that we
18 have that allows us to put in whatever the
19 variables are, and it's a standard appraisal tool
20 used in multiple regression analysis.

21 DR. WIKTOROWICZ: Okay, thank you. Can
22 we move on to the similar facilities that you've
23 quoted in your report.

24 We've already heard Stony Brook is 40
25 megawatts. I won't re-ask that question. On page

1 32 regarding your market area overview, this is
2 paragraph 6-7. I'm sorry, this is the Bethpage,
3 the Bethpage Power Plant.

4 Are you there?

5 MR. HULBERG: Yes.

6 DR. WIKTOROWICZ: I won't ask you to
7 read it, but basically you say according to data
8 compiled by a local real estate company, home
9 values soared in the 1980s until 1988 when the
10 rate of appreciation slowed.

11 When was the Bethpage Power Plant
12 brought on line? Next page, where you have the
13 picture of the power plant.

14 MR. HULBERG: Yes, 1989.

15 DR. WIKTOROWICZ: So the year after the
16 rate of appreciation slowed your next sentence
17 says values subsequently declined, along with
18 increasing market periods, until 1991 when they
19 appeared to stabilize and rebound.

20 Now, why wouldn't a normal person
21 conclude that that was because the power plant
22 came on line?

23 MR. HULBERG: Well, maybe someone who
24 wasn't an appraiser might conclude that. But an
25 appraiser would know that in most of the country

1 we had a decline in home values during that same
2 time period. So an appraiser would think that
3 that probably was a very fallacious conclusion.

4 DR. WIKTOROWICZ: So it would be a
5 national effect would override a local effect on
6 local housing prices? Is that your conclusion?

7 MR. HULBERG: Most probably, yes.

8 DR. WIKTOROWICZ: I see. Okay. Can you
9 tell me where this power plant is located
10 specifically?

11 MR. HULBERG: It's 36 miles east of New
12 York City. There's a map in the report that
13 shows --

14 DR. WIKTOROWICZ: Is it on the site of
15 the Northrup Grummon Aircraft manufacturing plant?

16 MR. HULBERG: Yes, it's stated in the
17 report that's exactly where it is.

18 DR. WIKTOROWICZ: Okay. Regarding the
19 Pittsfield plant, page 34, is it correct that this
20 plant is on the manufacturing site of the General
21 Electric Company?

22 MR. HULBERG: That's exactly right.

23 DR. WIKTOROWICZ: I see. It's 165
24 megawatts. And you feel this is a comparable --
25 both of these are comparable power plants to the

1 Metcalf proposal?

2 MR. HULBERG: Yes, they're very good
3 comparables.

4 DR. WIKTOROWICZ: Can you explain to me
5 what is the basis of that judgment?

6 MR. HULBERG: Yes, I'd be happy to. As
7 I testified earlier, I was looking for a number of
8 characteristics that are both present in the two
9 plants that were just discussed, Stony Brook and
10 Pittsfield. Particularly I wanted power plants
11 that were close to residential neighborhoods,
12 particularly subdivision type properties, as
13 opposed to a five-acre estate type of property.

14 That weren't strictly in an industrial
15 location or in the middle of a desert. And I
16 wanted relatively modern gas-fired plants as
17 opposed to 20-year-old coal-based plant, or some
18 other type of plant.

19 And it met those type of
20 characteristics.

21 DR. WIKTOROWICZ: So the Crockett plant
22 also falls under that generalization, is that
23 correct?

24 MR. HULBERG: Crockett doesn't fit as
25 well as Pittsfield and Stony Brook that we just

1 talked about. Crockett has residential, but also
2 the Town of Crockett has more of an industrial
3 character.

4 DR. WIKTOROWICZ: Is that any reason why
5 you selected -- why you decided to include that
6 one then, if it's so much different than the
7 others?

8 MR. HULBERG: I wanted to also find one
9 that was in California. An appraiser, what an
10 appraiser tries to do in an ideal study is try to
11 surround the issue being studied by as many
12 different types of issues as possible.

13 DR. WIKTOROWICZ: You, in bold, wrote on
14 page 37 that in this case, in the Crockett case,
15 the area -- concerns and fears regarding property
16 devaluation never materialized.

17 MR. HULBERG: Correct.

18 DR. WIKTOROWICZ: So, but in the
19 previous page, on page 36, you alluded to the fact
20 that the market was significantly depressed before
21 it came on line.

22 MR. HULBERG: I'm sorry, what paragraph
23 are you referring to?

24 DR. WIKTOROWICZ: On page 36, the
25 subheading Crockett market area overview, first

1 paragraph.

2 MR. HULBERG: Yes. Same comment as we
3 found in New York in the late 1980s, beginning
4 about 1989 and in the early 1990s, both New York
5 and Crockett, California were depressed.

6 DR. WIKTOROWICZ: So to what extent, in
7 your estimation, would a depressed or a hot
8 market, what impact would it have on local
9 property values in the event of -- at the stage of
10 a rumor of a power plant siting?

11 MR. HULBERG: Well, that's exactly why I
12 was making these comments in the report, and why I
13 wanted to look into these issues. Because one
14 also needs to consider whether there are other
15 factors going on at the same time.

16 Certainly a strong market cures a lot of
17 problems. You can paint your house purple and in
18 the market we've had in the past couple of years
19 you can still sell it.

20 But, you know, a stronger market will
21 tend to obscure problems. That's one reason I
22 tried to study, over a period of time, some of
23 these locations.

24 DR. WIKTOROWICZ: Would it be of value
25 to look at the housing prices in the Santa Teresa

1 community when the housing market was depressed?

2 MR. HULBERG: Yes, that's certainly one
3 potential. If we could have had an analogous
4 Metcalf announcement that somehow had occurred in
5 let's say 1990 or 1991, and done a study of that
6 time, that could be useful.

7 Since we don't have that kind of
8 information that's exactly why I looked, not
9 whether Los Paseos has gone up in value, for
10 example, and Santa Teresa has gone up, because
11 they have gone up; but, to look at whether they've
12 gone up as much as another unaffected control
13 neighborhood.

14 DR. WIKTOROWICZ: But you would have to
15 have a fairly large statistical sample in order to
16 make that assumption, with proper statistical
17 parameters to measure the goodness of your trend
18 line?

19 MR. HULBERG: Well, that's exactly why
20 one of the techniques is to look at all the sales
21 that I did over a two-year period, all of the
22 sales in the whole Santa Teresa area, all of the
23 sales in Blossom Valley, and all of the sales in
24 all of Santa Clara County.

25 DR. WIKTOROWICZ: Right, but just to

1 reiterate, I think you admitted that you were
2 unable to apply, or you cannot relate to me, you
3 can't tell me what statistical parameters were
4 used to gauge the goodness of fit in your trend
5 line?

6 MR. HULBERG: Well, that's reflected in
7 the MQ report.

8 DR. WIKTOROWICZ: I didn't see the
9 actual discussion of the statistical parameters,
10 but I'll be sure to look at it.

11 Are you aware of the critique by a
12 consultant of the CEC Staff by the name of Austin
13 Troy, who critiqued your analysis?

14 MR. HULBERG: Yes.

15 DR. WIKTOROWICZ: Do you have any
16 comments to his statements that no conclusions can
17 be drawn about this particular study? And then he
18 goes on to list three significant reasons.

19 Shall I go through them and ask you to
20 respond?

21 MR. HULBERG: No, I'm familiar with Mr.
22 Troy's report. And I'm happy to respond to it.

23 DR. WIKTOROWICZ: Okay. So the first
24 statement says that it appears from their study,
25 your study, that few people knew about the

1 announcement and that realtors actually disclosed
2 this fact to prospective homebuyers.

3 I'll withdraw that because the applicant
4 has already answered that question.

5 As well as the second point, that is for
6 those that did disclose it, it's not clear whether
7 this was a written or oral disclosure, and at what
8 stage of the property purchase the disclosure
9 occurred.

10 Do you have any response to that
11 statement?

12 MR. HULBERG: Yes, I do. Now, I don't
13 know, Mr. Troy is a PhD candidate, I don't know in
14 what, and perhaps he's an economist. I'm a real
15 estate appraiser.

16 And an economist would like to say that
17 we want as many -- we want a couple hundred data
18 points, we want a large number of identical data
19 points. We want the realtors to have made the
20 disclosure at the same point in the sale process
21 of this house. We want them to be the same type
22 of house. We want the disclosure to be the exact
23 same written format.

24 Therefore, we eliminate all of the
25 variables. And that's essentially a lot of what

1 Troy is saying. Give me more data.

2 I've used all of the data that exists in
3 this study. There is no more data.

4 DR. WIKTOROWICZ: Okay. Mr. Troy also
5 created a literature review.

6 MR. HULBERG: Yes.

7 DR. WIKTOROWICZ: Compiled a literature
8 review. In one of those papers he actually -- are
9 you familiar with that review, by the way?

10 MR. HULBERG: Yes.

11 DR. WIKTOROWICZ: Have you seen it?

12 MR. HULBERG: Yes.

13 DR. WIKTOROWICZ: Did you see a paper by
14 Kiel and McClain? It's title is house prices
15 during siting decision stages. The case of an
16 incinerator from rumor through operation.

17 MR. HULBERG: Yes.

18 DR. WIKTOROWICZ: Do you happen to have
19 that with you? It's actually an exhibit in my
20 file, if you want to see it. It's the last page.

21 MR. HULBERG: Give me a moment, I
22 believe I have that with me.

23 DR. WIKTOROWICZ: For anyone who's
24 interested in reviewing it, on our testimony it is
25 the last page, page 15 is the figure I am quoting.

1 MR. HULBERG: I don't think I have the
2 actual study. I have Mr. Troy's review of the
3 Kiel report. I'm familiar with that.

4 DR. WIKTOROWICZ: Would you like copies
5 so you can --

6 MR. HULBERG: Sure, love to have a copy.

7 DR. WIKTOROWICZ: -- refer to it as I
8 ask. This paper actually studied the effect of
9 prices on the distance from a proposed and
10 eventual operating incinerator, and he gauged the
11 evolution of these prices from pre-rumor, through
12 rumor, construction, ongoing operation and fully
13 on line.

14 Do you notice that at the rumor stage
15 there's an absolutely flat line showing there is
16 not any impact at all in the rumor phase?

17 MR. HULBERG: Yes, I see that.

18 DR. WIKTOROWICZ: Does that sound
19 reasonable to you?

20 MR. HULBERG: That would depend on a lot
21 of things. I don't know enough about the study; I
22 don't know to what extent the rumor was. If it
23 was something that was only whispered at the
24 Rotary and Kiwanis Clubs, or if it was something
25 that had the kind of widespread disclosure that

1 Mr. Crisp described earlier in his testimony.

2 DR. WIKTOROWICZ: The answer is that it
3 was a widespread disclosure. You'll see that --

4 MR. HARRIS: I'm going to object on the
5 basis that the Doctor is testifying --

6 HEARING OFFICER VALKOSKY: Yes, you've
7 got to be careful of that --

8 DR. WIKTOROWICZ: All right, --

9 HEARING OFFICER VALKOSKY: -- but you
10 can ask questions --

11 DR. WIKTOROWICZ: Okay, let me ask --

12 HEARING OFFICER VALKOSKY: -- of the
13 witnesses.

14 MR. HARRIS: I have a question, as well.
15 The report that you're referring to is not part of
16 your prefiled testimony, is that correct? You've
17 included one exhibit, but not the actual report?

18 DR. WIKTOROWICZ: The reference is in
19 the bibliography of the --

20 MR. HARRIS: Let me ask the question
21 again. Did you include the report in your
22 prefiled material?

23 DR. WIKTOROWICZ: The specific report,
24 no.

25 MR. HARRIS: Okay, only the exhibit?

1 DR. WIKTOROWICZ: Only the exhibit.

2 MR. HARRIS: Okay, I think I'm going to
3 object to this line of questioning, since it's not
4 part of your prefiled testimony, it's not
5 certainly part of our prefiled testimony.

6 HEARING OFFICER VALKOSKY: I think the
7 point being is that it's not really fair to ask
8 the witness questions on something which he has
9 not examined.

10 DR. WIKTOROWICZ: Okay, the paper is a
11 part of the record, and it's part of the record
12 from the Austin Troy submission. And this is
13 staff's submission.

14 I am just taking it from the existing
15 report that --

16 HEARING OFFICER VALKOSKY: Okay, so --

17 DR. WIKTOROWICZ: -- not my own.

18 HEARING OFFICER VALKOSKY: -- so your
19 contention is --

20 DR. WIKTOROWICZ: From the staff.

21 HEARING OFFICER VALKOSKY: -- that, in
22 fact, has been docketed?

23 DR. WIKTOROWICZ: Yes, sir.

24 HEARING OFFICER VALKOSKY: Okay, thank
25 you. Proceed, then.

1 DR. WIKTOROWICZ: Would you agree that
2 the trend line labeled as rumor would accurately
3 characterize your conclusions from your studies?
4 And that is that there's no impact at this phase?
5 And there is not to be any expected in this phase?

6 MR. HULBERG: I haven't read the report.
7 I'm looking at one page with the trend line, but I
8 can't comment on what Kiel found, but that's what
9 I found.

10 DR. WIKTOROWICZ: Okay.

11 MR. HULBERG: Kiel is studying an
12 incinerator in Massachusetts, and I certainly
13 would hope that somebody wouldn't take my cogen
14 plant in San Jose study and apply it to an
15 incinerator in Massachusetts.

16 DR. WIKTOROWICZ: You're actually free
17 to publish your work in a peer-reviewed journal
18 and get some peer review response --

19 MR. HULBERG: Thank you. Actually I'm
20 working on that right now.

21 DR. WIKTOROWICZ: Good.

22 MR. HULBERG: Look for it in the
23 Appraisal Journal.

24 DR. WIKTOROWICZ: Okay, send me a copy.

25 PRESIDING MEMBER LAURIE: How much more

1 do you have, sir?

2 DR. WIKTOROWICZ: That's actually it.

3 Thank you.

4 HEARING OFFICER VALKOSKY: Thank you,
5 sir. Ms. Cord.

6 MS. CORD: I had a question for Mr.
7 Hulberg.

8 CROSS-EXAMINATION

9 BY MS. CORD:

10 Q You stated in response, I believe, to
11 Commissioner Laurie's question -- or, no, it was
12 actually the staff attorney's question -- about
13 the project, about the homes that were listed in
14 this handout.

15 MR. HULBERG: Yes.

16 MS. CORD: And one of them had a sale
17 date of January of '99.

18 MR. HULBERG: Correct.

19 MS. CORD: And you said that you felt at
20 that time the project was widely known?

21 MR. HULBERG: No, not in January. The
22 sale in January was a sale in the control
23 neighborhood. I don't think it was widely known
24 in January of '99.

25 MS. CORD: At what point did you mean

1 that statement for?

2 MR. HULBERG: February.

3 MS. CORD: By February of '99 you feel
4 that it was widely known?

5 MR. HULBERG: Yes.

6 MS. CORD: Throughout where?

7 MR. HULBERG: Throughout San Jose.

8 Widely known doesn't mean that everyone in San
9 Jose knew about it. I'm sure there are lots of
10 people in the subject neighborhood that don't know
11 that we got a new president this month.

12 MS. CORD: Right, exactly. So based on
13 your widely known throughout San Jose, what would
14 be the source of this knowledge to your
15 information?

16 MR. HULBERG: Well, certainly it was in
17 the press, it was in The Mercury News, it was in
18 all the business journals; it was on television;
19 it was on, I forget the name of one of the
20 television shows in particular.

21 And I don't know at what point there
22 actually were things published on the -- there's a
23 community association that's very active in the
24 Santa Teresa area. I'm forgetting the name of --

25 MS. CORD: Would that be

1 SouthSanJose.com?

2 MR. HULBERG: I think that's correct.
3 And early on it was announced on that site.

4 MS. CORD: Okay, so you --

5 MR. HULBERG: Let me interrupt to say,
6 too, I think when we say widely known, particular
7 there's some elements of a population that are
8 always going to pick up information like this
9 ahead of others.

10 For example, realtors. They're more
11 likely to know about this than someone that works
12 14 hours a day and doesn't read the newspaper.

13 MS. CORD: I'm just going to note --

14 MR. HULBERG: That probably describes a
15 dotcommer, I guess.

16 MS. CORD: So realtors, you feel, are
17 more likely to know about current events in the
18 neighborhood?

19 MR. HULBERG: Generally, yes.

20 MS. CORD: So by March of '99 -- I'm
21 personally aware of one article in The San Jose
22 Mercury News. Can you quantify any other by March
23 of '99, any other widely disseminated sources of
24 information about this particular project?

25 MR. HULBERG: I don't have a

1 chronological file that I've maintained.

2 MS. CORD: Okay. And assuming that
3 there was a media article, as you say, in the
4 print media, and again focusing on the one that
5 was in The Mercury News, are you aware that some
6 people don't read the newspaper?

7 MR. HULBERG: That's exactly what I
8 said, yes. To my horror there are people who
9 don't read the newspaper. My wife is one of them.

10 MS. CORD: Does she live in Santa
11 Teresa?

12 MR. HULBERG: We live next to Santa
13 Teresa, just west of that area.

14 MS. CORD: And what language is The San
15 Jose Mercury News published in, do you know?

16 MR. HULBERG: English, Spanish and
17 Vietnamese.

18 MS. CORD: Okay, and do you think that
19 there are people who perhaps aren't reading any of
20 those editions of The Mercury News?

21 MR. HULBERG: My wife speaks two of
22 those languages and she doesn't read any of the
23 editions. So, --

24 MS. CORD: So I guess there could be
25 cases of people who don't. Thank you.

1 Now, you mentioned that -- moving to a
2 different topic here -- you mentioned that the
3 distance to the Santa Teresa neighborhoods was,
4 did you say 1.5 miles?

5 MR. HULBERG: The distance to Los Paseos
6 is between one and one and a quarter miles from
7 Metcalf.

8 MS. CORD: One and one and a quarter
9 miles. And where is that measurement from, what
10 point to what point?

11 MR. HULBERG: From the location of the
12 plant, itself.

13 MS. CORD: From like the property line
14 of the power plant project?

15 MR. HULBERG: You know, it's been awhile
16 since -- it's been two years since -- I don't
17 recall, frankly, the source of that. My
18 recollection is that from the site of the plant,
19 itself. This is on a much larger pieces of
20 property. I don't think it's from the property
21 boundary, I think it's from the plant, itself.

22 MS. CORD: Okay, and that's measuring
23 from maybe the building, one of the buildings, we
24 don't know which, but from some building to what
25 street are you thinking of?

1 MR. HULBERG: To the beginning of the
2 Los Paseos neighborhood.

3 MS. CORD: And would you say Los Paseos
4 is the closest neighborhood?

5 MR. HULBERG: Yes.

6 MS. CORD: Are you familiar with Pegasus
7 Court?

8 MR. HULBERG: Not by that name, no.

9 MS. CORD: Okay. So you wouldn't know
10 if Pegasus Court is in what you consider the Los
11 Paseos neighborhood?

12 MR. HULBERG: Well, I could look at a
13 map and see if it's on there. But I don't recall,
14 I don't know the names of all the streets in Los
15 Paseos, no.

16 MS. CORD: Okay. And you don't know the
17 name of the closest street to the power plant
18 project site?

19 MR. HULBERG: No.

20 MS. CORD: So, again, you were measuring
21 from somewhere on the project site to somewhere in
22 the neighborhood, but you're not really sure
23 where?

24 MR. HULBERG: I don't recall, but my
25 recollection it was from the plant, itself, rather

1 than from the property boundary. Which to me that
2 would be the appropriate measure anyway.

3 MS. CORD: Okay. Thank you. I had some
4 questions for Mr. Hanser. Are you awake over
5 there?

6 MR. HANSER: Yes.

7 MS. CORD: Okay. First of all you said
8 that your study showed a savings to consumers of
9 \$210 million during the period of June '99 to May
10 of 2000?

11 MR. HANSER: What I said was if the
12 plant had existed and was available to dispatch
13 generation during that time period, it would have
14 saved \$210 million.

15 MS. CORD: Good, thank you for that
16 clarification. Which consumers are you talking
17 about?

18 MR. HANSER: The State of California.
19 That's my estimate of what savings would accrue in
20 the California electricity market at that time.

21 MS. CORD: And do you know what the
22 population of the State of California is?

23 MR. HANSER: It's 24 million, I think
24 the last estimate, I can't remember exactly.

25 MS. CORD: You think it's maybe in the

1 20 millions? Not really in the 40 millions or
2 you're not sure?

3 PRESIDING MEMBER LAURIE: We don't have
4 to have testimony about that. The population of
5 California is approximately 34 --

6 MS. CORD: Okay. Can you tell us the
7 number of utility consumers in the State of
8 California you were using?

9 MR. HANSER: I'm sorry, I --

10 MS. CORD: As the people that would
11 accrue the benefits of \$210 million.

12 MR. HANSER: My assumption is that the
13 savings that would result from the plant, or the
14 hypothetical case in which the plant existed in
15 June '99 to 2000 would be passed on.

16 We did that estimation in that time
17 period because it was reflective of potential
18 savings for the plant.

19 In the time period 2003 to 2010 all the
20 price caps that were in place for both PG&E and
21 SCE and SDG&E are removed. And so any changes in
22 prices in the wholesale power markets presumably
23 will be passed on directly.

24 MS. CORD: Okay, but my question was for
25 the \$210 million savings --

1 MR. HANSER: It was a hypothetical
2 estimate --

3 MS. CORD: I understand.

4 MR. HANSER: -- of the likely impact on
5 it, and if it could be passed on to consumers it
6 amounted to \$210 million.

7 MS. CORD: 210 million.

8 MR. HANSER: Yes.

9 MS. CORD: And that \$210 million
10 hypothetical savings to consumers would be passed
11 on to how many consumers, do you think?

12 MR. HANSER: I don't have an allocation
13 of the rate schedules of the --

14 MS. CORD: That's not what I asked.

15 MR. HANSER: -- utilities -- but that's
16 required. You cannot allocate that to consumers
17 unless you know what the rate schedules are, you
18 know what the kilowatt hour demand is, the peak
19 demand for those customers, and allocate according
20 to rate class.

21 So, this is an estimate for the market
22 as a whole, and not for any specific consumer.

23 MS. CORD: So, I guess on a per capita
24 basis are we saying this \$210 million, what would
25 that mean to an individual?

1 MR. HANSER: It entirely depends on what
2 their consumption of electricity is. You cannot
3 say that without knowing what the typical
4 electricity consumption is.

5 For a small apartment, --

6 PRESIDING MEMBER LAURIE: That --

7 MR. HANSER: -- with low electricity
8 consumption --

9 PRESIDING MEMBER LAURIE: The question
10 has been asked and answered. He doesn't have a
11 response as to per capita.

12 MS. CORD: Thank you.

13 PRESIDING MEMBER LAURIE: Proceed.

14 MS. CORD: Did you say that -- this is
15 moving on to the middle portion of what you were
16 saying earlier -- your study assumes 9100
17 megawatts added in the eight years between 2003
18 and 2010 based on either a rapid or slow --

19 MR. HANSER: It's actually nine years,
20 it begins in 2002, the scenario that the
21 California Energy Commission put forth.

22 MS. CORD: Okay, and the amount that you
23 studied as being potentially added in the State of
24 California generation capacity was 9100 megawatts?

25 MR. HANSER: Roughly.

1 MS. CORD: Okay. Are you aware that
2 projects totaling over 15,000 megawatts have been
3 proposed in California just this year?

4 MR. HANSER: I'm fully aware of it, and
5 so is the California Energy Commission. And they
6 look through the potential projects that were put
7 forth, and that not all of them are likely to go
8 forward.

9 And in their judgment they took 19, I
10 believe, out of 41 projects that had been
11 proposed, and chose the 19 projects that they had
12 the greatest certainty of going forward.

13 It's not unusual to have lots of
14 projects proposed, and not to have them turned
15 into real power plants.

16 MS. CORD: So the first nine of these
17 projects that have been reviewed by the Energy
18 Commission since deregulation that have -- 100
19 percent of them have been approved, you don't feel
20 that's indicative of what's likely to happen in
21 the future of other projects that are proposed?

22 MR. HANSER: I'm sorry, I really don't
23 understand that question.

24 MS. CORD: Okay, let me try it a
25 different way. Since deregulation the first nine

1 projects that have been reviewed by the Energy
2 Commission have shown a 100 percent approval rate.
3 But your study shows that that's not likely to
4 continue?

5 MR. HANSER: Well, the California Energy
6 Commission asserts that that's not likely to be
7 continued. I did not make the choice about those
8 power plants, about which projects would go
9 forward or not. I took whatever the staff of the
10 California Energy Commission asserted was likely
11 to occur. And I trust their judgment in this
12 matter, since they seem to know what they're doing
13 in terms of the siting process, I guess.

14 MS. CORD: Thank you for the comment to
15 the Energy Commission. Let's move on to a
16 different area.

17 Your study assumes -- let me get this
18 right -- your study assumes that the power from
19 the Metcalf Energy Center that would result in
20 these savings of \$1.2 to \$1.8 billion over a
21 roughly eight to nine year period, you assume that
22 that power's going to be sold in California, is
23 that what you said?

24 MR. HANSER: Yes.

25 MS. CORD: And are you aware that the

1 ISO projects that by year 2003, which is the
2 earliest this project could be built, California
3 will be a net exporter of power?

4 MR. HANSER: I'm not aware of that
5 study. I would be somewhat surprised that
6 California would find itself in a position of
7 being a net exporter of power quite so quickly,
8 given its current situation.

9 It seems to me -- but, I'd have to see
10 the study that you --

11 MS. CORD: Okay. And there's also a
12 front page quote from the Energy Commission in
13 yesterday's newspaper reflecting the same data,
14 but it's something that you're unaware of, is that
15 what you said?

16 MR. HANSER: I'm not aware of that as of
17 right now. I'd be happy to take a look at that
18 study. But it's not a study that I've
19 incorporated into my analysis.

20 MS. CORD: Okay. Thank you.

21 HEARING OFFICER VALKOSKY: Thank you,
22 Ms. Cord. Mr. Scholz.

23 (Pause.)

24 HEARING OFFICER VALKOSKY: Okay, at this
25 time, find it necessary to take a recess. We'll

1 recess until 5:00.

2 (Brief recess.)

3 HEARING OFFICER VALKOSKY: Okay, back on
4 the record, please. A couple matters were
5 discussed while we were on a recess.

6 First, as I understand, there's no
7 objection from the other parties to letting Mr.
8 Boyd proceed, is that correct?

9 And secondly, I understand that there
10 were some scheduling concerns on behalf of
11 witnesses for the Santa Teresa group. Ms. Cord,
12 have you resolved any of those?

13 MS. CORD: As I told you during the
14 break, we have two people that have business
15 appointments tonight. I mean we're a working
16 class community. I don't think any of us are
17 prepared to support their families if they don't
18 go to their appointments and do their jobs.

19 So, they've been sitting here for hours,
20 and I don't know when, you know, these are
21 appointments that are likely to last through the
22 evening.

23 HEARING OFFICER VALKOSKY: Okay, so what
24 are the particular constraints, and again, realize
25 that the scheduling of witnesses depends largely

1 on the length of the continued cross-examination
2 of applicant's witnesses.

3 So what are the particular constraints?

4 MS. CORD: Ms. Hansen had a 6:00
5 appointment. She's already departed for that. I
6 don't know when she'll be available, if at all,
7 the rest of tonight.

8 Real estate listing appointments involve
9 walking through the house, going through
10 disclosures, going out to dinner. Could be very
11 lengthy. I just don't know when exactly, if at
12 all.

13 Mr. Ryan has a 7:00 appointment, at
14 which point he'd likely be unavailable for the
15 remainder of the evening, as well.

16 And I would also add that Mr. Mendoza
17 from the Silicon Valley Toxics Coalition has also
18 been here since 2:00, and has had to depart for
19 his scheduled evening appointment, and he will not
20 be available for the rest of the evening, either.

21 MR. AJLOUNY: He did mention that if he
22 could be first thing tomorrow at 2:00 he will come
23 here.

24 PRESIDING MEMBER LAURIE: We will not be
25 discussing this issue tomorrow.

1 MR. AJLOUNY: I'm sorry to hear that,
2 Commissioner.

3 HEARING OFFICER VALKOSKY: Ms. Cord, did
4 you discuss with the other parties whether they
5 would take those portions of your testimony by
6 stipulation, or whether they, in fact, wish to
7 cross-examine the witnesses?

8 MS. CORD: I don't know what that means,
9 so I don't think I'd be the right person to ask
10 them.

11 HEARING OFFICER VALKOSKY: Mr. Harris,
12 do you have any intent to cross-examine Santa
13 Teresa's witnesses, Hansen, Ryan and Mendoza?

14 MR. HARRIS: Absolutely, and our
15 understanding is we started this at 2:00, as
16 opposed to earlier, to accommodate folks.

17 PRESIDING MEMBER LAURIE: Well, let me
18 -- Mr. Valkosky says okay. My response is not
19 necessarily -- okay, you certainly have a right to
20 cross-examine, I respect that. But I'm also
21 inclined to see, with your extensive need to
22 cross-examine these witnesses, and I've seen their
23 testimony, then I'm inclined to be flexible and
24 make them available, even it if means calling them
25 back sometime.

1 So, I'd ask you to think about how
2 important the cross-examination of these witnesses
3 are. And, you know, I guess I could estimate the
4 questions you'd be asking, and I'd ask you to
5 weigh that. That choice is yours.

6 HEARING OFFICER VALKOSKY: Staff, do you
7 have any intent to cross-examine any of those
8 witnesses?

9 MS. WILLIS: No, we do not, and we'd be
10 willing to take in the testimony by stipulation.
11 In the alternative, if Mr. Ryan, who is here, we
12 would be willing to have him go before our
13 witness, if that's --

14 HEARING OFFICER VALKOSKY: Okay, we will
15 certainly attempt --

16 MS. WILLIS: -- an alternative.

17 HEARING OFFICER VALKOSKY: -- we will
18 certainly attempt to accommodate Mr. Ryan before
19 7:00 p.m., since he is here.

20 Any other party have any desire to
21 cross-examine the witnesses Hansen, Ryan and/or
22 Mendoza? Okay.

23 MR. BOYD: Stan, I was intending to do
24 that, but I wasn't intending to do it now.

25 HEARING OFFICER VALKOSKY: I'm sorry,

1 Mr. Boyd, when were you intending to do it,
2 because today --

3 MR. BOYD: Mr. Mendoza, my
4 understanding, would be available after 7:00.

5 MS. CORD: Tonight? No. No, he stated
6 he could not. And Ms. Hansen, as well.

7 MR. BOYD: Okay, then I withdraw --

8 MS. CORD: She may possibly be able to
9 come back tonight, we won't know quite yet. I
10 mean these are people who are independent
11 consultants, they're not on a payroll somewhere.
12 They have to make these appointments.

13 HEARING OFFICER VALKOSKY: We understand
14 that, we're just trying to work out --

15 MR. BOYD: Mr. Valkosky, that's fine, I
16 have no objections.

17 HEARING OFFICER VALKOSKY: --
18 scheduling. Okay, Mr. Harris.

19 MR. HARRIS: Okay, having had a second
20 now to consult with my client, we agree to
21 stipulate to those witnesses, their testimony, and
22 forego the right to cross-examine them.

23 HEARING OFFICER VALKOSKY: For all of
24 the witnesses, Hansen, Ryan and Mendoza?

25 MR. HARRIS: Yes. If Ryan comes back

1 we'll cross, but if he doesn't come back --

2 HEARING OFFICER VALKOSKY: Well, no, we
3 will attempt to accommodate Mr. Ryan before his
4 departure time.

5 MR. HARRIS: Right, absolutely.

6 HEARING OFFICER VALKOSKY: Okay, so I'm
7 really only talking about Hansen and Mendoza.
8 Okay, so there are -- just clarify this and then
9 I'm moving right off the point.

10 There are no parties who wish to cross-
11 examine either witness Hansen or Mendoza, is that
12 correct?

13 That's correct from applicant. That's
14 correct from the staff. It is correct from the
15 other parties. Okay.

16 Mr. Boyd, since you have --

17 MR. KREAMER: I don't know if I would be
18 permitted, as a party, to take -- cross-examine
19 Mr. Hansen.

20 HEARING OFFICER VALKOSKY: No, sir, Mr.
21 Kreamer, we've been over this before, sir.

22 (Parties speaking simultaneously.)

23 HEARING OFFICER VALKOSKY: I would like
24 to let everyone know you are now cutting into
25 Mr. Boyd's limited time to cross-examine, okay?

1 That's the reality, folks.

2 MR. BOYD: Okay, thank you.

3 HEARING OFFICER VALKOSKY: Mr. Boyd.

4 MS. CORD: I'm sorry, but what was the
5 final resolution of those three witnesses? You
6 would try to have Mr.

7 HEARING OFFICER VALKOSKY: There is no
8 desire to cross-examine the witnesses Hansen or
9 Mendoza. At the appropriate time we'll take that
10 testimony by stipulation. I'll receive those
11 exhibits.

12 We will accommodate Mr. Ryan before his
13 departure time. There is a desire to cross-
14 examine him. As I understand it, he has to leave
15 by 7:00. Therefore, let us conclude with
16 applicant's witnesses and then we'll go to Mr.
17 Ryan.

18 That's the resolution.

19 MS. CORD: Thank you, sir.

20 HEARING OFFICER VALKOSKY: Okay, Mr.
21 Boyd.

22 CROSS-EXAMINATION

23 BY MR. BOYD:

24 Q Okay, I don't have everybody's name.
25 Mr. Hulberg is you, okay. So, Mr. Hanser, I think

1 I want to start with you first.

2 Listening to your testimony I noted that
3 you excluded the timeframe between June 13th of
4 2000. Is that because of the recent volatility in
5 the market?

6 MR. HANSER: Yes.

7 MR. BOYD: Yes, okay. If, in your
8 opinion, you had taken into consideration the
9 recent volatility of the market would you still
10 have the same benefits that you ascribed to the
11 periods that didn't include that period?

12 MR. HANSER: No, they would have been
13 much larger.

14 MR. BOYD: There would have been more
15 benefits or greater benefits?

16 MR. HANSER: Greater, I mean larger.

17 MR. BOYD: And do you have any knowledge
18 of what the maximum price is for per kilowatt hour
19 in this so-called period of volatility? What was
20 the maximum price?

21 MR. HANSER: No, I don't have it with
22 me. My recollection is it bounced up to as much
23 as \$750 per megawatt hour. It's regularly
24 transacted fairly frequent basis in the \$100 to
25 \$200 per megawatt range, and recently has

1 transacted on a fairly regular basis in the \$400
2 per megawatt hour.

3 But I don't have the exact frequency
4 with which those prices were being transacted --

5 MR. BOYD: Now, when you were speaking,
6 you were speaking of the day-ahead market? How
7 about the spot market, are you aware of any other
8 higher prices in the spot market?

9 MR. HANSER: There have been some higher
10 prices, I understand, that have arisen for
11 purchased by the California ISO. There is some
12 exemption for some power that's essentially
13 brought in from the outside in terms of the cap
14 that's been placed on the market.

15 So there have been some higher prices
16 There have also been some ancillary services
17 markets sometimes that have reached higher prices
18 also.

19 MR. BOYD: Would you agree that it may
20 have went as high as \$1300 per megawatt hour?

21 MR. HANSER: Yeah, I read somewhere that
22 that was the price that was transacted, but
23 actually I haven't seen the data.

24 MR. BOYD: Okay. My other question is
25 are you aware of the FERC proceedings in EL00-98

1 and 95, the whole California emergency measure
2 that the FERC issued? And are you aware of the
3 December 15th FERC order in regard to that?

4 MR. HANSER: Yes.

5 MR. BOYD: And to your knowledge did
6 that FERC order find that the current pricing was
7 just and reasonable?

8 MR. HANSER: My recollection, and I
9 don't have the FERC order right in front of me, is
10 that the FERC believed that there were sufficient
11 difficulties at times in the market as it was
12 operating.

13 They were concerned that I believe just
14 and reasonable prices, which is their standard for
15 assessing a market, would be difficult to assert.
16 But, at the point the report indicates they have
17 not done a formal enough study to make that
18 assertion completely solid.

19 And so they indicated, I believe, that
20 they wanted a further investigation of the market
21 and rules behind the market -- that they could
22 make that assertion.

23 MR. BOYD: Okay, now, also are you aware
24 of the FERC order and whether or not they had an
25 opinion on whether the generators of power in the

1 state had an opportunity to exercise market power?

2 MR. HANSER: Again, I think that my
3 understanding, and I don't have the report before
4 me, is that they're still in the position trying
5 to understand whether or not the generators in the
6 market were exercising market power or not.

7 It's not a simple process to do so. And
8 I believe that the FERC was stating --

9 MR. BOYD: Well, I'm not asking you --

10 MR. HANSER: -- with regard to --

11 MR. BOYD: -- whether they did. I'm
12 just asking you if they had the opportunity to.

13 MR. HANSER: My understanding is the
14 FERC is not ready to decide whether or not there
15 was an exercise of market power.

16 MR. BOYD: Okay. Now, my other
17 question. In your opinion do you believe that the
18 current price of power is just and reasonable?

19 PRESIDING MEMBER LAURIE: You're going
20 beyond the scope of direct, Mr. Boyd.

21 MR. BOYD: Huh?

22 PRESIDING MEMBER LAURIE: You are going
23 beyond the scope of his direct testimony.

24 MR. BOYD: Well, his testimony was on
25 the price of -- the price benefit of this project.

1 And my reading of the marketplace is that there's
2 very little relationship between cost and what the
3 price is right now.

4 And so how can -- basically I'm trying
5 to --

6 CHAIRMAN KEESE: As I recall he directly
7 testified that he did not take today's prices into
8 consideration. That he stopped at \$33 price --

9 MR. HANSER: That was the average price
10 on the time period I --

11 CHAIRMAN KEESE: He stopped there, so he
12 is not --

13 MR. BOYD: \$33 per megawatt?

14 MR. HANSER: Hour.

15 MR. BOYD: Okay.

16 CHAIRMAN KEESE: He's not taking into
17 consideration these prices, so I don't think
18 there's any questions regarding today's prices.
19 He didn't --

20 MR. BOYD: Oh, I understand that.

21 CHAIRMAN KEESE: -- use that --

22 MR. BOYD: But this is --

23 CHAIRMAN KEESE: So, that's --

24 MR. BOYD: -- we're not talking about
25 today's market --

1 CHAIRMAN KEESE: That's where you --

2 MR. BOYD: -- is very different than the
3 market was before June 13th. And to say there's
4 some consumer benefit in price --

5 PRESIDING MEMBER LAURIE: Well, Mr.
6 Boyd, his testimony --

7 MR. BOYD: -- is kind of reaching --

8 PRESIDING MEMBER LAURIE: -- his
9 testimony only goes up to that date. If you want
10 to argue in your closing arguments, or as part of
11 your argument, that therefore his argument is
12 insufficient, you're free to make that argument.

13 MR. BOYD: Okay, thank you, I'll take
14 advantage of that opportunity to do that.

15 I'm done with you, and I'll go to the
16 next witness.

17 Mr. Hulberg, --

18 MR. HULBERG: Yes.

19 MR. BOYD: Now, do you have knowledge of
20 the -- you're an appraiser, I assume, so you
21 should have some knowledge of what the value of
22 fully improved and unimproved land in the vicinity
23 of the proposed Metcalf Energy Center, is that
24 correct?

25 MR. HULBERG: As a general question,

1 yes.

2 MR. BOYD: As a general question.

3 MR. HULBERG: Yes, I've done many
4 appraisal studies in the vicinity of Metcalf.

5 MR. BOYD: In your opinion, what is the
6 value per acre within a mile of undeveloped
7 property, within a mile of Metcalf Energy Center,
8 you know, general ballpark value per acre.

9 MR. HULBERG: Any appraiser with
10 experience wouldn't be able to answer that, and I
11 can't either. You've got some land that's in the
12 north Coyote Valley assessment district that's
13 going to be, the 1200 acres of land where Cisco's
14 going to be built.

15 You got some land that's going to be
16 forever butterfly habitat. You've got some land
17 that's got a Coyote Grange Hall on it. There are
18 houses. You've got, you name it, --

19 MR. BOYD: Let's say, for example, the
20 property that the Coyote Valley Research Park has
21 proposed to build the Cisco campus. What would
22 your guesstimate be of the value per acre for that
23 property undeveloped?

24 MR. HULBERG: Well, appraisers don't
25 give guesstimates. But, then the next question, I

1 have worked on appraisals relating to that. Then
2 you've got to get to the question of are you
3 talking about before approval of the Coyote Valley
4 project, before the -- having the interchanges in,
5 or after --

6 MR. BOYD: Before approval would be
7 sufficient.

8 MR. HULBERG: You know, I'd have to know
9 a lot more about the question. I can't answer the
10 question the way it's posed.

11 MR. BOYD: Okay, before approval.

12 MR. HULBERG: More than \$10 per --
13 before approval?

14 MR. BOYD: Yeah.

15 MR. HULBERG: What date?

16 MR. BOYD: Before the City Council
17 approved the environmental impact report on the
18 Cisco development?

19 MR. HULBERG: That they approved in
20 November of 2000?

21 MR. BOYD: Yeah.

22 MR. HULBERG: That depends on what set
23 of assumptions you want to lay on that.

24 MR. BOYD: Just plain undeveloped land,
25 just want to know what it's worth.

1 MR. HULBERG: I'd love to answer that,
2 but those are the kind of questions that I go off
3 and work for a month and charge lots of thousands
4 of dollars for. So, I'd like to be much faster,
5 but --

6 MR. BOYD: I assume since you're an
7 appraisal expert that you should be able to answer
8 the --

9 PRESIDING MEMBER LAURIE: Mr. Boyd, he's
10 already testified that he can't respond to that
11 general question.

12 MR. BOYD: Is there a way that I could
13 phrase the question for you that would enable you
14 to give me a number?

15 MR. HULBERG: I don't know what your
16 abilities are, sir, I've never met you.

17 MR. BOYD: So, let me pose it to you
18 this way. Do you believe that if someone offered
19 \$10,000 per acre that would be a reasonable offer?
20 Or do you consider that that would be below market
21 offer?

22 MR. HULBERG: That would be below market
23 offer in the north Coyote Valley area for level,
24 developable industrial land.

25 MR. BOYD: Okay. I'm done with my

1 questions. Now I'll move on to Mr. Crisp.

2 First, let's start with the letter from
3 the NAACP, or this -- you have knowledge of this?

4 MR. CRISP: Yes.

5 MR. BOYD: In this it refers to -- it
6 has at the bottom, second paragraph, talks about
7 Mr. Federal Glover, Contra Costa County Supervisor
8 and former mayor of Pittsburg, express support of
9 the local chapter.

10 Do you know Mr Glover?

11 MR. CRISP: I don't.

12 MR. BOYD: Have you had any experience
13 with Mr. Glover?

14 MR. CRISP: No.

15 MR. BOYD: Earlier in your testimony you
16 said that you were involved in the environmental
17 justice analysis on the Delta Energy Center, is
18 that correct?

19 MR. CRISP: That's correct.

20 MR. BOYD: Mr. Glover was a member of
21 the City Council at the time of the approval of
22 that project, are you aware of that?

23 MR. CRISP: No.

24 MR. BOYD: So you don't have any
25 knowledge of Mr. Glover's affiliation?

1 MR. CRISP: I don't.

2 PRESIDING MEMBER LAURIE: He's already
3 answered the question, Mr. Boyd.

4 MR. BOYD: Okay. That's fine. Do you
5 have knowledge, or are you aware of the complaint
6 that CARE filed on April 18th of 2000 against the
7 California Energy Commission for its approval of
8 the Delta and Los Medanos Energy Centers?

9 MR. CRISP: I am aware of that, yes.

10 MR. BOYD: And you also prepared and
11 presented written testimony in the Delta Energy
12 Center evidentiary hearings?

13 MR. CRISP: Yes.

14 MR. BOYD: And in those evidentiary
15 hearings do you remember that you also found that
16 there was not a majority population in the study
17 zone?

18 MR. CRISP: In the impact zone.

19 MR. BOYD: In the impact zone.

20 MR. CRISP: That's correct.

21 MR. BOYD: Okay. And subsequent to that
22 did you change your opinion on that?

23 MR. CRISP: No.

24 MR. BOYD: In any way? So you still
25 believe that the City of Pittsburg is a majority

1 white?

2 MR. CRISP: The testimony that I gave
3 was regarding the impact zone, not the City of
4 Pittsburg. The entire City of Pittsburg is not
5 inside the impact zone.

6 MR. BOYD: And when you refer to impact
7 zone, you are referring to the five-mile
8 circumference surrounding the plant that was --

9 MR. CRISP: No.

10 MR. BOYD: -- identified --

11 PRESIDING MEMBER LAURIE: Mr. Boyd, why
12 are questions regarding Pittsburg relevant to Mr.
13 Crisp's testimony --

14 MR. BOYD: Because it seems that we have
15 a different analysis here. In this case we are
16 using this circle. And my understanding is in the
17 Delta case we were looking at, as he said, the
18 impact zone.

19 The impact zone, as my understanding,
20 was determined based on the impact of air
21 emissions from the project.

22 PRESIDING MEMBER LAURIE: Okay, so is
23 your question is the foundation for the analysis
24 the same in this case --

25 MR. BOYD: Yes.

1 PRESIDING MEMBER LAURIE: -- as it --

2 MR. BOYD: Basically, yes.

3 PRESIDING MEMBER LAURIE: Okay.

4 MR. CRISP: Actually, the foundations
5 are the same in both cases. And if you recall, in
6 the Delta case there was also a screening analysis
7 done.

8 That one was actually done by the
9 California Energy Commission. It used a -- I
10 don't recall how many mile radius area for
11 purposes of doing the screening.

12 I confirmed that their results of the
13 screening analysis were the same as my results. I
14 took it a further level of detail in Delta, just
15 as I did here, took it down to the impact zone,
16 and down to the smallest geographic area for which
17 we can get demographic data, which is the census
18 block and census block group.

19 So, the analyses were identical in terms
20 of methodology.

21 MR. BOYD: Okay, so then in your opinion
22 don't you believe -- or did you, in making the
23 determination of this project, did you review the
24 air modeling the applicant completed, in
25 determining what area to analyze?

1 MR. CRISP: I --

2 MR. BOYD: Or did you just use this
3 five-mile radius that you have drawn?

4 MR. CRISP: I did both.

5 MR. BOYD: You did both. And which was
6 your report -- your report was based on both this
7 five-mile radius and the impact zone of emissions,
8 correct?

9 MR. CRISP: They result in the same
10 conclusion, yes.

11 MR. BOYD: Okay. Now, to your
12 knowledge, in this project are there any areas
13 within the impact zone or this five-mile radius
14 that have a majority, on the census block level,
15 that have a majority minority population?

16 MR. CRISP: Within any of the zones of
17 impact, from any of the disciplines that were
18 studied, the data that I have indicate that the
19 minority and low income population is less than 50
20 percent.

21 MR. BOYD: Okay. Now, do you have
22 knowledge, or have you reviewed CARE's October
23 13th filing of a motion for necessity for an
24 environmental justice analysis?

25 Yeah, you have it right there. I see

1 some pages right there on top.

2 MR. CRISP: I don't see the date on it.
3 Where's the date on it?

4 MR. BOYD: I don't think I dated it,
5 so -- but I know it was the 13th from the website.

6 MR. CRISP: It's called motion of
7 necessity for --

8 MR. BOYD: Yes.

9 MR. CRISP: -- environmental justice
10 analysis.

11 MR. BOYD: Did you review this?

12 MR. CRISP: Yes.

13 MR. BOYD: And in there did you see this
14 graph that I was provided by the Energy Commission
15 of recent pollution sources near the proposed
16 Metcalf Energy Center?

17 MR. CRISP: Which page is that?

18 MR. BOYD: Page 2.

19 MR. HARRIS: Can I ask what document
20 you're looking at?

21 MR. BOYD: The motion of necessity for
22 environmental justice analysis on impacts of the
23 Metcalf Energy Center on low income and minority
24 population, including school children. It was
25 filed on October 13th with the Commission.

1 MR. HARRIS: Did you refile that?

2 MR. BOYD: No. I didn't know I had to
3 refile everything.

4 MR. HARRIS: -- have a copy for me then?

5 MR. BOYD: I only have this one copy.

6 MR. HARRIS: Can I peek at it?

7 MR. BOYD: Well, I just -- basically
8 it's the same thing I did in Delta. I'm asking
9 him if he saw the EPA map.

10 MR. CRISP: Yes, I saw the EPA map.

11 MR. BOYD: Now, on the EPA map do you
12 note any areas where they show greater than 50
13 percent minority?

14 MR. CRISP: I have to get the map back.
15 I don't doubt that there are some areas where the
16 population would be greater than 50 percent
17 minority, that's fairly common.

18 The question is, is the impact zone in
19 its entirety greater than 50 percent.

20 MR. BOYD: So in your opinion --

21 MR. CRISP: And the answer to that is
22 no.

23 MR. BOYD: -- there is no need to
24 perform the EJ analysis unless a majority of the
25 study area, whether it be the impact zone or this

1 five-mile radius, contains 50 percent or greater
2 minority?

3 MR. CRISP: Let me explain why the
4 President's Council on Environmental Quality
5 defined 50 percent as the threshold.

6 MR. BOYD: Fifty percent of what is what
7 we're talking about now. I understand that what
8 the President's -- I have -- that's on the front
9 page here, okay.

10 MR. CRISP: Yes.

11 MR. BOYD: And my question --

12 PRESIDING MEMBER LAURIE: Mr. Boyd, --

13 MR. BOYD: -- is specifically --

14 PRESIDING MEMBER LAURIE: Mr. Boyd, hold
15 on --

16 MR. BOYD: -- your opinion --

17 PRESIDING MEMBER LAURIE: -- a minute.

18 The question, as I understand it, is the impact
19 zone, 50 percent, within the entire impact zone;
20 or 50 percent within segmented communities within
21 the impact zone. Is that your question?

22 MR. BOYD: Right.

23 PRESIDING MEMBER LAURIE: So if there
24 are identifiable neighborhoods within the impact
25 zone that are majority minority, --

1 MR. BOYD: Right.

2 PRESIDING MEMBER LAURIE: -- do they
3 deserve additional analysis. Is that your
4 question?

5 MR. BOYD: Correct.

6 MR. CRISP: The answer lies in the
7 Executive Order, itself, where the President made
8 it clear that we're to be determining if there are
9 disproportionately high and adverse effects on the
10 minority population or the low income population.

11 The President didn't care where those
12 populations were located. And in my opinion, and
13 I've given this testimony before, and I've made
14 this presentation to professional societies and
15 groups who do environmental justice analyses, it's
16 entirely inappropriate to look at one small
17 neighborhood, or one small geographic area,
18 because it can give you the wrong answer.

19 The reason it can give you the wrong
20 answer is that there isn't any way to analyze
21 that. Let's say you have three small areas that
22 are high minority impacted, and 12 areas of the
23 same size or neighborhoods or whatever you want to
24 use, that are not minority. What do you say?
25 Twelve are not, three are, so that's not

1 disproportionate?

2 Doesn't it depend on how many people
3 actually live in those areas? Of course it does.
4 So, really the analysis is based on the
5 population, wherever they live, inside the zone of
6 impact, not a five-mile radius, not a two-mile
7 radius, not a general area that's used solely for
8 screening. But rather who lives inside the
9 footprint, let's say, of high and adverse air
10 quality. Who lives there. That's the question.

11 MR. BOYD: Well, you answered my
12 question with a question, which is do you believe,
13 yes or no, that if there's any population
14 clustered in the impact zone, 50 percent or
15 greater, that there should be an EJ analysis?

16 MR. CRISP: Well, --

17 MR. BOYD: Yes or no?

18 MR. CRISP: -- I believe that there
19 should be an EJ analysis in any case.

20 MR. BOYD: Okay. And do you believe
21 that that EJ analysis should identify the worst
22 case scenario for impacts?

23 MR. CRISP: It should identify high and
24 adverse impacts.

25 MR. BOYD: In what case, the worst case?

1 Or the best case?

2 MR. CRISP: That takes me back to the
3 discussion that we had earlier on the results of
4 the CEQA analyses. I depend on those because
5 they're developed by experts in fields that I am
6 not an expert in. So I let the experts make the
7 call.

8 MR. BOYD: I'm sorry, but I have to go.
9 I'm out of time. So, thank you for your
10 indulgence.

11 HEARING OFFICER VALKOSKY: Thank you,
12 Mr. Boyd.

13 MR. WILLIAMS: Mr. Valkosky?

14 HEARING OFFICER VALKOSKY: Yes, Mr.
15 Williams.

16 MR. WILLIAMS: I would like to allow Mr.
17 Ryan to testify next so that he can be excused,
18 but I'd appreciate approximately 15 minutes to
19 cross-examine --

20 HEARING OFFICER VALKOSKY: Well, right
21 now, --

22 MR. WILLIAMS: -- these --

23 HEARING OFFICER VALKOSKY: -- right now
24 for the orderliness of the record, we really want
25 to finish with applicant's witnesses. Okay?

1 Because otherwise we've got a fragmented record.
2 If everybody moves along as relevant and
3 nonduplicative, we ought to be able to finish this
4 up pretty quickly. Okay?

5 I'd really like to get Mr. Ryan on no
6 later than 6:00. That's about 27 or 28 minutes
7 from now. So, therefore, letting it to the
8 parties, we all know the constraints we're
9 operating under.

10 MR. WILLIAMS: Well, a stipulation then
11 that might save time. There's an awful lot of Mr.
12 Hanzer's testimony that could be dealt with during
13 the transmission presentation. A lot of the
14 economic benefits --

15 HEARING OFFICER VALKOSKY: Mr. Williams,
16 we have been over that ground already. Mr. Hanzer
17 has only testified to the first, I believe it's 22
18 pages, is that correct, sections 1 and 2.

19 The balance of the testimony will be
20 heard during the transmission line engineering/
21 local systems effect portion, which I believe is
22 scheduled in March.

23 We've been there and done that already.

24 MR. WILLIAMS: Thank you, sir, I was
25 unavoidably not able to attend the first three

1 hours today, I apologize.

2 HEARING OFFICER VALKOSKY: Okay. Mr.
3 Ajlouny.

4 MR. AJLOUNY: -- to Mr. Boyd, not to Mr.
5 Ajlouny.

6 HEARING OFFICER VALKOSKY: My
7 misunderstanding. Mr. Scholz.

8 CROSS-EXAMINATION

9 BY MR. SCHOLZ:

10 Q Mr. Carrier, I think I have one question
11 for you. Are the economic benefits you list,
12 i.e., the property taxes, the sales tax revenue
13 that this project would generate site-specific?
14 Or would they be the same regardless of where in
15 San Jose this plant was located?

16 MR. CARRIER: The property tax is based
17 upon anywhere in Santa Clara County. The sales
18 tax is a function of the point of sale.

19 MR. SCHOLZ: So that benefits would be
20 the same regardless of where in San Jose you
21 locate this plant?

22 MR. CARRIER: As far as those two items,
23 yes.

24 MR. SCHOLZ: Thank you. Would the
25 economic negatives be lessened if this project was

1 sited in an industrial zoned area, heavy
2 industrial zoned area?

3 MR. CARRIER: I don't know.

4 MR. SCHOLZ: Mr. Hulberg, why is the
5 Santa Teresa real estate area significantly lower
6 in value in comparison to the entire Santa Clara
7 County?

8 MR. HULBERG: That has to do with a
9 number of factors. Home size, proximity to
10 employment, lot size, so that in general as one
11 travels down, just to make a broad generalization,
12 from San Francisco toward Gilroy, let's say,
13 broadly stating we have gradually decreasing
14 prices.

15 So that west San Jose, or let's say
16 continue on, Saratoga, Cupertino have higher
17 prices, and south San Jose, not just Santa Teresa,
18 but Watson Valley, and then on into Morgan Hill,
19 you have lower prices.

20 MR. SCHOLZ: Do the prices start to pick
21 up again in Morgan Hill, just south of us in Santa
22 Teresa?

23 MR. HULBERG: No, not for the same type
24 of home. A 1500 square foot, 28-year-old home in
25 Los Paseos on a 7000 square foot lot is going to

1 sell for more than an otherwise identical home in
2 Morgan Hill. And that has to do with proximity to
3 employment.

4 MR. SCHOLZ: Does the Fairchild incident
5 in the Santa Teresa neighborhood have any
6 influence on property values in Santa Teresa?

7 MR. HULBERG: I haven't studied that.
8 It's quite a number of years since that incident.
9 It's certainly ten years ago. I never did study
10 it ten years ago, but I think that there's a good
11 chance that in the area immediately adjoining
12 that, just south of Bernal Road, if we went back,
13 I'm not sure if it was 10 years, 15 years ago, we
14 may very well have seen an impact.

15 MR. SCHOLZ: Do you know if sellers in
16 the area still have to disclose the Fairchild
17 Superfund site?

18 MR. HULBERG: I don't know that. I
19 think certainly there's no question it would
20 depend on which particular area of Santa Teresa
21 we're talking about.

22 MR. SCHOLZ: Does the buyer's perception
23 of negative impacts have any influence on price of
24 real estate?

25 MR. HULBERG: Of course.

1 MR. SCHOLZ: Pardon me?

2 MR. HULBERG: Of course.

3 MR. SCHOLZ: Were you involved in a
4 disclosure document that real estate agents are
5 required to share with home buyers regarding the
6 proposed MEC?

7 MR. HULBERG: No.

8 MR. SCHOLZ: Are you aware of that
9 document that was drafted with the real estate
10 board?

11 MR. HULBERG: Yes, I'm aware of it, and
12 I that some of the people that were involved in it
13 had copies of my study, but I wasn't involved in
14 writing that document.

15 MR. SCHOLZ: Was the applicant involved
16 in that disclosure agreement, or the disclosure
17 clause or whatever, for the proposed MEC?

18 MR. HULBERG: I don't know.

19 MR. SCHOLZ: Was it inaccurate that the
20 newspaper reported that you were involved in
21 preparing that disclosure agreement, or disclosure
22 statement?

23 MR. HULBERG: I don't know what quote
24 you're talking about in the newspaper. But, as
25 you stated the question right now, that would be

1 an inaccurate statement.

2 MR. SCHOLZ: Okay.

3 MR. HULBERG: But did I do the studies
4 that we've been talking about here today, yes.

5 MR. SCHOLZ: Are you aware when that
6 document was created that real estate agents now
7 are required to disclose the MEC?

8 MR. HULBERG: No.

9 MR. SCHOLZ: Are you aware of any other
10 new negative impacts to the Santa Teresa area?

11 MR. HULBERG: Well, beauty is always in
12 the eye of the beholder, and some people in Santa
13 Teresa think that the proposed Cisco project is
14 very much a negative. Others think it's very much
15 of a positive.

16 MR. SCHOLZ: What is your opinion?

17 MR. HULBERG: I think it's a positive.

18 MR. SCHOLZ: In your graphs, in your
19 first filed testimony, I believe go from July '98
20 to June '99, and then you pick up in your
21 supplement, July '99 to September 2000, can you
22 explain to me why the median price for the Santa
23 Teresa area does not keep pace with the Santa
24 Clara County?

25 I realize the pricing is different,

1 because you testified why there would be pricing
2 differences, but why doesn't the pace of real
3 estate going up in value, isn't that percentage
4 the same?

5 MR. HULBERG: It is. Santa Teresa has
6 the same trend lines over time as the County in
7 general. You can't, of course, look just at one
8 month, or even a couple of months. Because, for
9 example, during certain economic periods we may
10 find that more high priced homes will sell. Other
11 periods you find more entry-level buyers.

12 But, no, the trend line for Santa Teresa
13 has been the same as the County.

14 MR. SCHOLZ: Well, do you want to pull
15 out the data and just look and see if you think
16 they are the same?

17 MR. HULBERG: I have pulled out the data
18 and I do think they're the same.

19 MR. SCHOLZ: Well, do you think an
20 increase of 46 percent for the County from the
21 time period of July '98 to July 2000 is the same
22 as a 29 percent increase for the same time period
23 for the Santa Teresa neighborhood? Is that the
24 same?

25 MR. HULBERG: Well, I haven't checked

1 the math that you've done just now. But assuming
2 that it's correct, if you instead took the period
3 of May '99 to May 2000 you get a different figure.

4 So it's not appropriate, you can't just
5 take a one month snapshot and say that is
6 representative of all of the data.

7 MR. SCHOLZ: I'll leave it to others to
8 look at your figures. Are you aware of the
9 testimony filed by Laurie Hansen, a local real
10 estate agent in Santa Teresa, where she testified
11 that she lost two sales after disclosing the
12 proposed MEC?

13 MR. HULBERG: Yes.

14 MR. SCHOLZ: Is it your testimony that
15 there should be no impact on property values due
16 to MEC, or that there will be impacts, but you
17 don't consider them significant?

18 MR. HULBERG: I expect there will be no
19 impacts.

20 MR. SCHOLZ: In the two cited examples
21 from Laurie Hansen's testimony, she lost one sale
22 which represents a loss of 2.3 percent; and her
23 second sale was a loss of 3.3 percent. Is that no
24 impact?

25 MR. HULBERG: That's what happens when

1 you use two data points and try to generalize from
2 them, especially with very limited information.
3 And that would be like saying that one individual
4 family backed out of a purchase of a house because
5 it had a swimming pool and they decided they were
6 fearful for their two-year-old. And then that
7 same home resold later for \$20,000 less. And the
8 realtor said then that that means that swimming
9 pools have a negative value of \$20,000.

10 You have to look a lot more at what the
11 factors were involved, and look at more than just
12 those two particular sales.

13 MR. SCHOLZ: I don't want to argue with
14 you, but as swimming pool and a proposed power
15 plant are not the same. And people who decided to
16 purchase a property --

17 PRESIDING MEMBER LAURIE: Well, you're
18 now arguing. And, before you go into it much
19 further on other people's witnesses, you've heard
20 the applicant indicate that they do not intend to
21 cross-examine.

22 We can't hold them to that if you're
23 asking this witness questions on those witnesses,
24 because then this applicant is going to have to
25 attack the credibility of those witnesses, and

1 that's going to be your folks' judgment.

2 Ms. Cord's witnesses' testimony will
3 stand.

4 MR. SCHOLZ: And I understand if it's
5 stipulated that you accepted these as her sworn
6 testimony, they're not disputed facts.

7 PRESIDING MEMBER LAURIE: Okay, well,
8 first of all, we don't have the stipulation yet.
9 And all I can tell you is that, as Mr. Harris is
10 sitting here and seeing his witness have to
11 respond to questions you're posing from Ms. Cord's
12 potential witnesses, Mr. Harris going to say,
13 well, I have to defend this client by attacking
14 the credibility of Ms. Cord's clients.

15 And he's going to have the right to do
16 that. So, I'd just ask you to keep that in your
17 mind as you go through this line of questioning.

18 CHAIRMAN KEESE: The questions should be
19 regarding his testimony, period.

20 MR. SCHOLZ: I agree. And I'm asking --
21 he reiterated his testimony as there's no impact
22 to the real estate property values in our
23 community, that we won't have any in the future,
24 either.

25 PRESIDING MEMBER LAURIE: Well, ask him

1 if he agrees with the document he read. But I'm
2 warning you, anything beyond that Mr. Harris may
3 feel it's his obligation to go back and recall Ms.
4 Cord's witnesses, which may not be available,
5 which means that the testimony may not be let in.

6 So, I'd ask you to keep that in mind.

7 MR. SCHOLZ: I would ask for guidance at
8 this point. If we can make the witness available
9 at any point in this process, to go through a
10 five-minute cross-examination of Ms. Hansen -- to
11 somehow elevate her sworn testimony in written
12 form --

13 PRESIDING MEMBER LAURIE: Her testimony
14 in written form is the same as her testimony in
15 oral form.

16 HEARING OFFICER VALKOSKY: In terms of
17 weight accorded.

18 MR. SCHOLZ: Well, it seems like we're
19 disputing as a fact now, so, I want to make sure
20 it's not disputed --

21 HEARING OFFICER VALKOSKY: Well, the
22 facts stated in her testimony are the facts stated
23 in her testimony. If you have just direct
24 questions to ask applicant's witness, please go
25 ahead.

1 MR. SCHOLZ: Hypothetically, would a 1
2 percent loss in property values to the homeowners
3 of Santa Teresa be insignificant?

4 MR. HULBERG: Well, I'm not sure what
5 you mean by the term insignificant, if we're
6 talking about some legal threshold, or some
7 threshold as a part of this sort of proceeding.
8 But, would I want to know about something causing
9 a 1 percent loss in value, the answer to that is
10 yes.

11 MR. SCHOLZ: Would you classify that as
12 no impact, a 1 percent loss in property value?

13 MR. HULBERG: No, I would not classify
14 that as no impact.

15 HEARING OFFICER VALKOSKY: Mr. Ajlouny,
16 if you guys are going to consult, you can present
17 joint cross-examination through one of you, that's
18 okay. That's fine. Let's just not have a
19 duplication of everything.

20 MR. AJLOUNY: I just wanted him to
21 clarify that Mr. Harris still is going to take the
22 testimony as is, if it hasn't changed.

23 HEARING OFFICER VALKOSKY: Well, that --

24 PRESIDING MEMBER LAURIE: I'm telling
25 you that was the deal.

1 MR. AJLOUNY: Okay, so we're going to
2 stop now. But if he changes then he wants to
3 continue with that --

4 (Laughter.)

5 MR. AJLOUNY: Do you see what I mean?
6 Isn't that a legitimate concern?

7 HEARING OFFICER VALKOSKY: No.

8 MR. AJLOUNY: It isn't?

9 HEARING OFFICER VALKOSKY: I don't see
10 what you mean.

11 MR. AJLOUNY: Well, I guess I'm saying
12 Mr. Harris --

13 HEARING OFFICER VALKOSKY: That's fine,
14 look -- look, -- we're trying to get Mr. Ryan on.

15 MR. SCHOLZ: I will stop there.

16 HEARING OFFICER VALKOSKY: Thank you.
17 Mr. Ajlouny.

18 MR. AJLOUNY: I was just trying to help.

19 CROSS-EXAMINATION

20 BY MR. AJLOUNY:

21 Q. Mr. Hulberg, I appreciate your patience
22 with us and our inexperience. Those four
23 comparisons you did to other power plants, Stony
24 Brook, was that in a heavy industrial area? I
25 just wanted to confirm I heard that.

1 MR. HULBERG: There was industrial, but
2 primarily residential.

3 MR. AJLOUNY: But the power plant was in
4 a heavy industrial area?

5 MR. HULBERG: The exact site of it was
6 industrial, adjacent to residential.

7 MR. AJLOUNY: And I don't know the name
8 of the next one, Beth something?

9 MR. HULBERG: Bethpage, yes.

10 MR. AJLOUNY: Was that in a heavy
11 industrial area?

12 MR. HULBERG: The exact site industrial;
13 it was, again, adjacent to --

14 MR. AJLOUNY: Okay.

15 MR. HULBERG: -- just as is Metcalf.

16 MR. AJLOUNY: Okay. And the next one
17 is, what's the name of that next one, the 165 meg?

18 MR. HULBERG: Pittsfield.

19 MR. AJLOUNY: Pittsfield. Is that also
20 in a heavy industrial area?

21 MR. HULBERG: Residential.

22 MR. AJLOUNY: So that plant is built in
23 a residential site?

24 MR. HULBERG: Yes.

25 MR. AJLOUNY: I mean, the lot is a

1 residential, and they put a power plant there?

2 MR. HULBERG: It's primarily a
3 residential area. There is some industrial use,
4 but it's primarily a residential area.

5 MR. AJLOUNY: Sir, do you want to back
6 up on Stony Brook? Is that -- I mean I'm trying
7 to make a point here.

8 MR. HULBERG: Well, it depends on what
9 you mean. I'm trying to answer --

10 MR. AJLOUNY: The physical plant on the
11 lot that it -- the parcel it's built on, is that a
12 heavy industrial or not?

13 MR. HULBERG: Oh, in that case all of
14 them are on industrial parcels. Just as --

15 MR. AJLOUNY: Okay, --

16 MR. HULBERG: -- as Metcalf, the lands
17 to the south in Coyote Valley are all industrial.
18 The lands on the other side of Tulare Hill, in the
19 neighborhood we're mostly talking about, are
20 residential.

21 MR. AJLOUNY: Okay. And were those all
22 industrial before those homes were there? Do you
23 happen to know that, when you did your seeing if
24 there was any impact --

25 MR. HULBERG: I think that there's some

1 yes and some no; it varies from one neighborhood
2 to the other.

3 MR. AJLOUNY: In your expert opinion
4 would that make a difference to a buyer when
5 they're buying a home, if they knew that when
6 they're buying a home that there's a lot that's
7 heavy industrial next to them?

8 MR. HULBERG: Certainly, as you've
9 stated it, the answer is yes. The longer answer
10 is that it depends, and it also depends on what
11 you mean by heavy industrial.

12 In fact, actually part of our study that
13 I have discussed here today dealt with proximity
14 to R&D type uses.

15 But, in general, heavy industrial uses
16 are ones that bear a closer look than just your
17 neighbor having an identical house to yours.

18 MR. AJLOUNY: Okay, so that would have
19 an impact on a person's purchasing a home or not,
20 whether heavy industrial is in the general area
21 when they buy a home? They'd look at that, and
22 say, I mean it would be a consideration, whatever
23 the words are?

24 MR. HULBERG: It's a consideration
25 and --

1 MR. AJLOUNY: Okay.

2 MR. HULBERG: -- then it bears a closer
3 look as to what type of use it is.

4 MR. AJLOUNY: Okay.

5 MR. HULBERG: And all the other factors,
6 the physical size, many many other things.

7 MR. AJLOUNY: Okay. Do you think the
8 fact if there was no heavy industrial area it
9 would be easier for someone to buy a home in let's
10 say lot A in a neighborhood, because there's no
11 heavy industrial area nearby?

12 MR. HULBERG: Well, you certainly have
13 fewer things to evaluate.

14 MR. AJLOUNY: Okay. And then
15 hypothetically a year later someone buys a home
16 and finds out a heavy industrial use is going to
17 be near their home. Do you think that would make
18 a buyer feel real good about their investment of
19 their home, or a little sad, in your expert
20 opinion?

21 MR. HULBERG: It depends entirely.
22 That's part of the point, that's why you have to
23 look at what type of heavy industrial. It's one
24 of the other parameters. That's why you can't
25 take an incinerator in Boston and apply it to a

1 plant in San Jose.

2 MR. AJLOUNY: No, I appreciate it, I
3 think you did, you know, I think you really tried
4 really hard to do a good evaluation. And so my
5 next question is why were three out of the four
6 power plants out of California for your
7 consideration, for your evaluation?

8 MR. HULBERG: Because of the desire by
9 standard appraisal techniques to find the most
10 similar type of plants with a similar type of
11 residential neighborhood next to them.

12 I would certainly prefer finding them
13 all not only in California, but in the Bay Area.
14 There's just fewer variables. And then, you know,
15 we wouldn't have had the trip to New York during a
16 hurricane actually. Seriously.

17 But, you know, we went further afield to
18 find the most similar types of --

19 MR. AJLOUNY: And that makes sense, and
20 I agree with that. So is your testimony stating
21 that nowhere in California is a power plant in a
22 neighborhood other than Crockett?

23 MR. HULBERG: Nowhere in California did
24 I find a power plant that I considered to be
25 similar type of plant, in other words a gas-fired

1 plant, a relatively modern plant, and close to a
2 moderate priced single family residential
3 neighborhood. I did not find one. There might be
4 one somewhere that I didn't find.

5 MR. AJLOUNY: And I notice in the three
6 out of the four were significantly less megawatts
7 producing than Metcalf's 600 and maybe 600-plus
8 megawatts?

9 MR. HULBERG: Yes, that's right.

10 MR. AJLOUNY: Is that true? Now, the
11 one in California that you did find, the 240
12 megawatts, at least half of what Metcalf is
13 proposed to produce?

14 MR. HULBERG: Yes, it is, but
15 interestingly its NOx emissions are about 15
16 percent more.

17 MR. AJLOUNY: Okay, but are you familiar
18 with how many years it took to put that power
19 plant in? And the controversial, with the
20 homeowners and everything else?

21 MR. HULBERG: Yes, it was controversial
22 at --

23 MR. AJLOUNY: Okay, how many years? Do
24 you have an estimate?

25 MR. HULBERG: I certainly don't recall.

1 I'd have to look at my report to see if I --

2 MR. AJLOUNY: Would eight years sound
3 about right?

4 MR. HULBERG: That may very well be the
5 case.

6 MR. AJLOUNY: Would you think an eight-
7 year controversial power plant in a neighborhood
8 would affect any value or people to want to buy a
9 home in that neighborhood, in your expert opinion?

10 MR. HULBERG: It certainly could, and
11 actually that was one of the interesting things
12 about the study, that a number of the realtors we
13 talked to in the study said that the fears that
14 people had in Crockett when the plant was proposed
15 ended up not materializing.

16 And by most, not all, but most residents
17 in Crockett view the plant favorably.

18 MR. AJLOUNY: Well, what I'm talking
19 about is during the eight years there's a lot of
20 buying and selling during those eight years, did
21 you analyze those eight years that opposition?

22 MR. HULBERG: No, I just did the
23 analysis as --

24 MR. AJLOUNY: Is it reasonably easy to
25 believe that during those years it would have

1 affected the property values, in your expert
2 opinion?

3 MR. HULBERG: It's possible, I didn't
4 study that, but --

5 MR. AJLOUNY: You didn't study it, but
6 in your expert, you know, your --

7 HEARING OFFICER VALKOSKY: He's answered
8 it already. He's answered it a couple times.

9 MR. AJLOUNY: Well, I don't --

10 HEARING OFFICER VALKOSKY: Okay, now
11 just move on, really. Because I do want to
12 accommodate the witnesses.

13 MR. AJLOUNY: I understand, but I'm
14 trying, you know, --

15 HEARING OFFICER VALKOSKY: Relevant and
16 nonrepetitive.

17 MR. AJLOUNY: In your expert opinion is
18 perception more important -- is perception a
19 consideration when buyers buy a home, whether it's
20 true or not? Perception.

21 MR. HULBERG: Absolutely.

22 MR. AJLOUNY: Is it your expert opinion
23 that reality is more than any appraiser could come
24 out with, like the reality of this did happen,
25 versus what an appraiser might think would happen?

1 MR. HULBERG: Appraisers try to measure
2 reality, in other words, facts. When facts don't
3 exist, then they try to use other estimates to
4 estimate what will happen in the future.

5 MR. AJLOUNY: So, basically the facts
6 have more -- you build your appraisal based on the
7 facts that happen in a neighborhood?

8 MR. HULBERG: Correct.

9 MR. AJLOUNY: Okay. I have to jump
10 around here, because now -- someone stated
11 something about \$76- to \$150 million, and I don't
12 know what witness because I got lost here.

13 \$76- to \$150 million? Okay, Mr. Hanser,
14 was it?

15 MR. HANSER: Yes.

16 MR. AJLOUNY: Okay, that would be a
17 benefit of Metcalf, the savings of \$76- to \$150
18 million.

19 MR. HANSER: \$115.

20 MR. AJLOUNY: \$76- to \$115 million
21 savings with Metcalf being at that location. Are
22 you familiar with the alternate site testimony of
23 staff, stating that other locations, say locations
24 three and four on page 711 of the FSA, that
25 there's \$7.1 million savings versus \$3.8 million

1 savings at Metcalf because of the loss of the
2 electricity on the lines?

3 MR. HARRIS: Which section is that
4 testimony?

5 MR. AJLOUNY: It's in alternate sites.
6 When he brought up about the savings of money, and
7 this is pertinent.

8 HEARING OFFICER VALKOSKY: That sounds
9 like line losses and the witness --

10 MR. AJLOUNY: Yes, --

11 HEARING OFFICER VALKOSKY: -- wasn't
12 testifying on line losses.

13 MR. AJLOUNY: I understand, but I was
14 just wondering, he's testifying about the millions
15 of dollars savings of Metcalf, and I wanted to
16 know if he took in consideration of the --

17 HEARING OFFICER VALKOSKY: As to the
18 price of electricity on the market as
19 hypothesized. I believe what you're talking about
20 is another incremental savings due to what sounds
21 like line losses.

22 In other words the loss in electricity
23 that --

24 MR. AJLOUNY: Yeah.

25 HEARING OFFICER VALKOSKY: -- happens

1 while it --

2 MR. AJLOUNY: I thought I heard the
3 witness --

4 CHAIRMAN KEESE: It's in March.

5 MR. AJLOUNY: What's that?

6 CHAIRMAN KEESE: That's at the next
7 hearing in March we'll talk about that.

8 MR. AJLOUNY: I understand, but I
9 thought his testimony meant that if Metcalf was
10 built there'd be a savings to the State of
11 California of \$76- to \$115 million. Did I hear
12 that right?

13 MR. HANSER: No, no. What I did say was
14 that if I allocated the price benefits of the
15 Metcalf Energy Center to Santa Clara County, in
16 proportion to the likely use of energy by Santa
17 Clara County, the benefits to Santa Clara County
18 for the plant were \$76- to \$115 million.

19 I've done a separate calculation which
20 is in my report on savings associated with line
21 losses for Metcalf Energy Center. And I'm
22 postponing that testimony and that discussion
23 until we have the meeting in March on local system
24 effects and transmission system effects.

25 MR. AJLOUNY: Okay, I apologize. I

1 didn't understand that.

2 MR. HANSER: That's all right.

3 MR. AJLOUNY: Okay. I don't know who
4 this goes to. Someone stated that there was two
5 major impacts on this power plant, land use and
6 visual. Is that the man? I don't know your name,
7 sorry about that.

8 Okay. Are you familiar with the
9 testimony so far in these hearings, and
10 specifically in the area of noise?

11 MR. CRISP: I'm not familiar with the
12 testimony. If you're talking about oral
13 testimony.

14 MR. AJLOUNY: Yes.

15 MR. CRISP: I have read the noise
16 reports.

17 MR. AJLOUNY: Okay. So you're not
18 familiar about any LORS being broken in the area
19 of noise?

20 MR. CRISP: From what I read in the
21 filed testimony the extent of noise is below the
22 65 dba threshold, which is the threshold that's
23 commonly considered an acceptable level of noise.

24 MR. AJLOUNY: Okay, well, I'll do a
25 hypothetical, because I think there might be

1 question of different interpretation.

2 MR. CRISP: Okay.

3 MR. AJLOUNY: So, hypothetically, if
4 LORS were being broken in the area of noise would
5 that change your testimony at all being three
6 unmitigatable areas, noise, visual and land use?

7 MR. CRISP: It would change my testimony
8 in terms of whether there are or are not high and
9 adverse impacts. But it wouldn't change my
10 testimony that there is no minority and low income
11 population affected by it.

12 MR. AJLOUNY: Okay, --

13 MR. CRISP: You recall you have to have
14 both of those conditions --

15 MR. AJLOUNY: Okay.

16 MR. CRISP: -- to make an adverse
17 finding.

18 MR. AJLOUNY: Are you familiar with the
19 low income housing for senior citizens less than a
20 mile away from the power plant?

21 MR. CRISP: I'm not.

22 MR. AJLOUNY: Okay. Would your analysis
23 normally find something like that?

24 MR. CRISP: Normally that would show up
25 in the database that we're using. And, in fact,

1 if you recall, my testimony said that the low
2 income fraction is about 5 percent. So it did
3 pick up, I presume, those residents.

4 MR. AJLOUNY: Okay. Well, there's
5 hundreds of apartments type, but -- you not being
6 aware of it, you know, I can't question you on it
7 or anything, so.

8 MR. HARRIS: I don't believe that was
9 his testimony.

10 MR. AJLOUNY: What's that?

11 MR. HARRIS: I don't think that was his
12 testimony.

13 MR. AJLOUNY: That he was not aware of
14 it? I thought I just asked him and he said he --

15 HEARING OFFICER VALKOSKY: Okay,
16 let's --

17 MR. AJLOUNY: I'm not going to argue.
18 Are you aware that Metcalf won't be on line at the
19 soonest till 2003, and I don't know if that
20 question's for you, so I apologize. I'm jumping
21 now. Who was that -- I guess the point I want to
22 make, I'm sorry, I apologize, --

23 PRESIDING MEMBER LAURIE: Who do you
24 want to ask the question?

25 MR. AJLOUNY: Yeah, I know.

1 PRESIDING MEMBER LAURIE: What are you
2 trying to get at?

3 MR. AJLOUNY: I'm trying to get to the
4 point that someone mentioned that there's 9100
5 megawatts going to be on line up to 2010, I think
6 it was yourself, was that you, Mr. Hanser?

7 MR. HANSER: No, what I said was that
8 the California Energy Commission has done a study
9 that --

10 MR. AJLOUNY: That's it, yes. Did the
11 study about that. Now, are you aware that the
12 soonest that Metcalf would be coming on line is
13 2003?

14 MR. HANSER: That's why we did the
15 analysis, we had Metcalf on line in 2003,
16 estimated impacts --

17 MR. AJLOUNY: Okay. Are you aware with
18 the power plants that have actually been licensed
19 and are --

20 MR. HANSER: I assumed that the
21 California Energy Commission's alternative
22 resource scenario includes all the currently
23 licensed plants, and includes a number of plants
24 that are not yet currently licensed, which they
25 believe have a high probability of coming on line.

1 MR. AJLOUNY: Yes. And to finish my
2 question, are you aware that the nine plants that
3 have already been approved, they're up to 6273
4 megawatts of power?

5 MR. HANSER: I am certain that the
6 California Energy Commission included all of those
7 in its calculations. There's a total of about
8 9100 megawatts that are supposedly on line, -- or
9 not on line, but have a high potential of being on
10 line over the next ten years.

11 In the Energy Commission's rapid
12 development scenario the majority of those come on
13 in the 2003 to 2004 timeframe. I would assume
14 that implies that they're well along in the
15 process of either being approved or put shovel in
16 the ground, or whatever.

17 MR. AJLOUNY: Okay, I've just got this
18 one last point on that same ground. And the point
19 I want to make, and I'd like a yes or no answer,
20 but I guess I'm not getting it, is are you aware
21 that MaryAnn Costamagna, a spokeswoman for the
22 California Energy Commission, has stated by 2003
23 that power is going to be probably exported out of
24 California, sold to other people, other than
25 California?

1 MR. HANSER: California does that right
2 now in the middle of the energy crisis. It
3 seasonally will sell energy outside California.

4 MR. AJLOUNY: Over --

5 MR. HANSER: But, that does not mean
6 that there are not periods of time, in fact large
7 and substantial periods of time, in which
8 California's energy short, does not have the
9 capability to meet its own needs.

10 MR. AJLOUNY: And I understand that.
11 I'm trying to make the point that from what the
12 California Energy Commission spokeswoman is saying
13 by 2003 we're going to have an overall surplus of
14 power and they're expecting --

15 HEARING OFFICER VALKOSKY: All right, I
16 would just like to clarify the record. I know
17 MaryAnn. She works in our media office.

18 MR. AJLOUNY: Okay.

19 HEARING OFFICER VALKOSKY: She has no
20 particular technical expertise that I'm aware of.
21 Whether or not she said that, I have no idea.
22 Keep that in perspective, though.

23 MR. AJLOUNY: Okay.

24 HEARING OFFICER VALKOSKY: Okay?

25 MR. HANSER: And I mean I would be only

1 too happy to review the study that the California
2 Energy Commission has put forward where -- at this
3 point in time I have no basis for assessing it.

4 MR. AJLOUNY: Okay. And I'm going back
5 to the point that you mentioned that Metcalf
6 Energy Center would definitely be used for the
7 South San Jose or San Jose area and all the power
8 would be sold to the general area.

9 MR. HANSER: That's not what I said.

10 MR. AJLOUNY: I thought I heard --

11 HEARING OFFICER VALKOSKY: That was not
12 the testimony, and correct me if I'm wrong, Mr.
13 Hanser, I believe one of the presumptions in the
14 testimony is it would all be sold to the State of
15 California, is that correct?

16 MR. HANSER: That's correct.

17 HEARING OFFICER VALKOSKY: There you go.

18 MR. AJLOUNY: Okay, that's the end of my
19 questions, thank you.

20 HEARING OFFICER VALKOSKY: Thank you.
21 Okay, Mr. Williams, you're the last before we can
22 move on with Mr. Ryan.

23 MR. WILLIAMS: Thank you, I'll try to be
24 very brief.

25 CROSS-EXAMINATION

1 BY MR. WILLIAMS:

2 Q Mr. Hulberg, with regard to your study,
3 your proximity study, how do you control for two
4 factors, that is a negative factor such as
5 Metcalf, and a potentially positive factor such as
6 CVRP?

7 MR. HULBERG: The item that was studied
8 was exactly Metcalf. Now, if there's some
9 additional impact of CVRP that wasn't part of what
10 I was trying to isolate. It's possible to some
11 extent to make such a study, though.

12 MR. WILLIAMS: I agree that it's
13 possible, but you would agree then that your study
14 does not have a sufficient control area to control
15 for both the effect of CVRP and the effect of
16 Metcalf?

17 MR. HULBERG: No, I wouldn't agree with
18 that. It's really not reasonable in real estate
19 to think that Santa Teresa, for example, just
20 because it's immediately adjacent to the Blossom
21 Valley real estate district, for the board of
22 realtors, that Santa Teresa is going to go
23 shooting up or down in relation to Cisco in
24 comparison with Blossom Valley. That's not
25 normally the kind of impact that we see. So I

1 would have expected to see some impact in that
2 regard.

3 MR. WILLIAMS: What is the date of the
4 last sale in your study, if you recall, in the
5 Santa Teresa area? It's my recollection it was
6 about the 12th of July of 1999.

7 MR. HULBERG: Well, that's probably in
8 the case of the first study, yes. And then I did
9 another study a year later. So as to the first
10 study I think you're probably about right.

11 MR. WILLIAMS: In the second study what
12 is the number of sales that were considered in the
13 second study, approximately?

14 MR. HULBERG: Well, again, I considered
15 all of the sales, and I don't think that I have
16 with me -- well, in fact, I'm sure I don't, what
17 the total number of sales are, again, in all of
18 Santa Teresa, all of Blossom Valley, all of Santa
19 Clara County.

20 So all of those sales were considered.
21 Then, again, some individual sales that are in Los
22 Paseos, which, just glancing at them, oh, the
23 sales that are in that supplement, I think there's
24 probably about 25 or so on the list.

25 MR. WILLIAMS: Okay. Moving to the

1 clarification of the C&H Sugar plant, the Crockett
2 plant, what is the location of the Crockett
3 cogeneration plant?

4 MR. HULBERG: It's -- I think I have a
5 map that shows its location. I don't know if you
6 have a copy of this. It's basically immediately
7 east of freeway 80 and just a few feet off of --
8 it's right next to the Carquinez Strait, the north
9 branch of San Francisco Bay.

10 MR. WILLIAMS: Is it essentially part of
11 the industrial facility to which it provides
12 cogeneration?

13 MR. HULBERG: Yes.

14 MR. WILLIAMS: That's all I have, thank
15 you.

16 HEARING OFFICER VALKOSKY: Thank you,
17 Mr. Williams.

18 Okay, do you have extensive redirect?

19 MR. HARRIS: Actually no, I've got less
20 than ten minutes of redirect.

21 HEARING OFFICER VALKOSKY: Okay, and
22 again, I'm just worried about Mr. -- trying to
23 accommodate --

24 (Parties speaking simultaneously.)

25 HEARING OFFICER VALKOSKY: Mr. Ryan has

1 left?

2 PRESIDING MEMBER LAURIE: And what about
3 Ms. Cord?

4 SPEAKER: She had to go, too. Son's
5 birthday, three years old today.

6 HEARING OFFICER VALKOSKY: Okay.

7 MR. HARRIS: Regardless, it will take me
8 less than ten minutes on my redirect.

9 HEARING OFFICER VALKOSKY: Okay,
10 proceed.

11 REDIRECT EXAMINATION

12 BY MR. HARRIS:

13 Q I have one question for Mr. Carrier.
14 Mr. Carrier, an issue of a fire station came up.
15 Is it your understanding that worker safety
16 condition 3 deals with the issue of the fire
17 station for the Coyote Valley?

18 MR. CARRIER: Yes.

19 MR. HARRIS: Thank you. Mr. Hulberg, I
20 have a couple of questions for you. In your
21 national survey you looked at compatible land uses
22 and did not focus on megawattage.

23 Can you explain to us again precisely
24 why you selected those facilities?

25 MR. HULBERG: I was trying to find the

1 examples that were the most similar to the
2 property that's being studied, Metcalf. In other
3 words, proximity to houses which would be expected
4 to have a greater impact than what the output is
5 of the plant, as I testified earlier. A homeowner
6 is not apt to drive by one plant and look at it
7 and say it looks like a 400 megawatter, and
8 another one looks like a 200 megawatter.

9 It's much more important to have
10 proximity to similar types of houses, similar
11 ages, similar price range relative to that
12 community. So those were the most important
13 factors.

14 MR. HARRIS: And your techniques were
15 based on generally accepted methodologies used by
16 appraisers, is that correct?

17 MR. HULBERG: Absolutely, that's what
18 the appraiser tries to find, the most similar
19 examples. And the megawatts are, I think, a less
20 important factor than, you know, you have the
21 visual impact and then you also have the issue of
22 whether there are health concerns. And the
23 pollutants, the NOx --

24 MR. HARRIS: Let me ask you about the
25 NOx emissions for these projects. Is it your

1 testimony that the Stony Brook facility, which is
2 a 40 megawatt facility, would have a NOx emissions
3 of 147 pounds -- or tons per year, as compared to
4 123 for the Metcalf project?

5 MR. HULBERG: Exactly.

6 MR. HARRIS: And is it your testimony
7 for the Pittsfield facility, which is 165
8 megawatts, that the tons per year of NOx there is
9 145 tons per year of NOx compared to 123 for
10 Metcalf?

11 MR. HULBERG: That's correct.

12 MR. HARRIS: And for the Crockett
13 facility, is it your testimony that the NOx
14 emissions there would be 160 tons per year versus
15 the 123 for the Metcalf facility?

16 MR. HULBERG: Correct.

17 MR. HARRIS: And for the Bethpage, is it
18 your testimony that the NOx emissions there would
19 be 308 tons per year versus the 123 tons per year
20 for Metcalf?

21 MR. HULBERG: Exactly correct.

22 MR. HARRIS: Thank you. You said it
23 before in your response to cross-examination that
24 it's important to use caution when generalizing
25 your studies to different types of land use.

1 Can you expand upon that caution and why
2 you exercise that caution?

3 MR. HULBERG: We have to look at the
4 most similar, as I testified a moment ago, the
5 most similar types of comparables, so that we look
6 at an effect of a gas-fired plant on a residential
7 neighborhood of a certain type of houses. That's
8 going to be different than -- potentially
9 different than the impact of a coal plant on
10 residential care homes, or some completely
11 different type of use.

12 Or similarly, there was testimony before
13 about -- or questioning about a Boston study,
14 about a coal-fired plant. And that's great that
15 somebody did a study in Boston that had a certain
16 result.

17 MR. HARRIS: Would you recommend though
18 that people try to generalize your study to
19 different locations throughout the country?

20 MR. HULBERG: No. In fact, my study
21 says several places in it that that should not be
22 done. That's not an appropriate use of a -- a
23 study needs to be site specific.

24 That would be just a ludicrous as an
25 appraiser doing a study in Boston, that swimming

1 pools in Boston are worth \$30,000, and then saying
2 that, well, I guess they must be worth \$30,000 in
3 San Jose.

4 MR. HARRIS: Okay, thank you. Turn to
5 the Crockett plant. You heard some discussion
6 about that. Since its operation of that facility
7 have you analyzed the effect of that facility on
8 values in that area?

9 MR. HULBERG: Yes.

10 MR. HARRIS: And what were your findings
11 there?

12 MR. HULBERG: That there was no impact.
13 Again, it was the same type of study, realtor
14 survey and a control neighborhood, as compared to
15 the neighborhood the closest, and consistently the
16 Crockett data showed that there wasn't any impact.

17 This is despite, as I was asked a moment
18 ago, whether it wasn't controversial with a lot of
19 the neighbors when it was proposed. And it was.
20 And it hasn't had an impact on values.

21 MR. HARRIS: Thank you. I have nothing
22 else.

23 HEARING OFFICER VALKOSKY: Recross?

24 MS. WILLIS: None.

25 HEARING OFFICER VALKOSKY: Dr.

1 Wiktorowicz.

2 DR. WIKTOROWICZ: Okay, am I on? Okay.

3 DR. WIKTOROWICZ: -- recross for
4 everyone?

5 HEARING OFFICER VALKOSKY: In your turn.
6 Yes, I'm starting recross right now.

7 RE CROSS-EXAMINATION

8 BY DR. WIKTOROWICZ:

9 Q Mr. Hulberg, you stated that you
10 attempted to find these sites that were located
11 near homes, and that's why you picked the ones you
12 did in Bethpage and Crockett and the other places.

13 Aren't they also already sited on
14 existing industrial facilities?

15 MR. HULBERG: That's correct.

16 DR. WIKTOROWICZ: Factories, General
17 Electric Company, that sort of thing?

18 MR. HULBERG: Yes, although Stony
19 Brook's actually on a portion of a university
20 site.

21 DR. WIKTOROWICZ: Right, so how's that
22 necessarily more relevant to the Metcalf situation
23 as opposed to a comparison of megawattage?

24 MR. HULBERG: Oh, it's absolutely
25 relevant. Actually the Metcalf site does not sit

1 on residential property. Its very immediate
2 neighborhood is principally an industrial
3 neighborhood. It just is next to a residential
4 neighborhood.

5 And that's the exact same circumstance
6 with the properties that were being studied. They
7 also are adjacent to residential neighborhoods.

8 DR. WIKTOROWICZ: Let me clarify my
9 point. My point was existing industrial
10 facilities, factories already in place. The
11 examples you gave were factories already in place.
12 Metcalf has no factory already in place.

13 MR. HULBERG: Metcalf does not, Metcalf
14 is an area that's proposed. But, again, the
15 impact on the existing neighbors, on the existing
16 houses, would be expected to be similar. I didn't
17 do a study of impact on industrial sites. I did a
18 study impact on San Jose residences.

19 Similar, there were existing homes that
20 were already in place in the time that these other
21 four facilities were --

22 DR. WIKTOROWICZ: All right, I think we
23 know the discrepancy and we can judge for
24 ourselves whether the relevance is there or not.

25 You mentioned that people are less

1 sensitive to a 400 megawatt versus a 200 megawatt
2 power plant. Megawattage, in other words, doesn't
3 enter into their minds when they're making value
4 judgments regarding particular houses near these
5 sites?

6 But how about 14 acres versus 2.5 acres,
7 sites, power plants that are 14 acres versus 2.5
8 acres? Is that something that individuals might
9 consider significant?

10 MR. HULBERG: Certainly, there are many
11 things that are potential. You know, in addition
12 to that would be we have a hill between the houses
13 in Metcalf. None of the comparables had exactly
14 that.

15 So, in doing studies of this sort one
16 never finds another property that's identical.

17 DR. WIKTOROWICZ: Right. So you have to
18 make judgments as to what's relevant and what's
19 not. And I understand that. And we have the
20 right to judge whether those are the correct
21 judgments.

22 You brought some issues, you mentioned
23 some points about no impacts, I think? If I could
24 also go back to my questions about your valuation
25 of what no impact means on a redirect?

1 MR. HARRIS: I'm going to object on the
2 basis that's beyond the scope of the redirect.

3 PRESIDING MEMBER LAURIE: You have to
4 ask questions about the limited questions that Mr.
5 Harris raised during his redirect examination.

6 DR. WIKTOROWICZ: Okay, well, the
7 applicant used the term no impact, and I thought
8 that it would be important to define based on his
9 submissions what no impact means in realistic
10 terms.

11 I mean I've already indicated that on
12 some of the graphs no impact could mean there was
13 no disclosure, therefore no impact. Or there was
14 disclosure, there was no impact. I just thought
15 it would be instructive to further that analysis.

16 I have some additional questions
17 regarding that. One question.

18 CHAIRMAN KEESE: Well, his answer is it
19 would have no impact.

20 DR. WIKTOROWICZ: Right, but my question
21 is what does he mean by no impact. We already
22 know that in his evaluation, not disclosing the
23 potential for a power plant --

24 CHAIRMAN KEESE: Well, Mr. Chairman, I
25 believe that question is redundant. I think we've

1 heard that question before, and we've heard the
2 answer, no impact.

3 PRESIDING MEMBER LAURIE: I would
4 concur. The record will stand that his testimony
5 is no impact. Are you asking him to define --

6 DR. WIKTOROWICZ: No, I'm just --

7 CHAIRMAN KEESE: When you testify I have
8 a feeling you're going to say it's got an impact.

9 DR. WIKTOROWICZ: And I will be willing
10 to qualify exactly what I mean by that in specific
11 terms.

12 CHAIRMAN KEESE: Well, I'm sure you
13 will.

14 DR. WIKTOROWICZ: I'm still confused as
15 to what his meaning is, that's all. And I'm
16 assuming you are, too, but maybe I'm --

17 PRESIDING MEMBER LAURIE: Ask him if he
18 can define the term no impact. Either he can more
19 carefully define it, or he can't.

20 DR. WIKTOROWICZ: All right.

21 PRESIDING MEMBER LAURIE: Ask him if he
22 can define the term no impact in a quantitative
23 sense.

24 DR. WIKTOROWICZ: Okay. Can you
25 quantify your term no impact?

1 MR. HULBERG: I found zero impact. I
2 found zero. So that's how -- what I found, zero.

3 DR. WIKTOROWICZ: Zero, zero percent?

4 MR. HULBERG: Zero percent, zero
5 dollars, zero.

6 DR. WIKTOROWICZ: Okay. Thank you.

7 HEARING OFFICER VALKOSKY: Does that
8 conclude your recross?

9 DR. WIKTOROWICZ: Yes, I'm sorry, thank
10 you.

11 HEARING OFFICER VALKOSKY: Mr. Scholz.

12 RE CROSS-EXAMINATION

13 BY MR. SCHOLZ:

14 Q In your testimony on page 37, the
15 original submittal, you testified that the
16 Crockett cogeneration plant was a net improvement
17 on emissions.

18 CHAIRMAN KEESE: Does this relate to
19 what we just heard on --

20 MR. SCHOLZ: I realize they were doing a
21 correlation between emissions from a smaller
22 facility and a larger facility. So my question
23 is, since in the Crockett area there's a net
24 emission benefit from the Crockett cogeneration
25 facility, whereas there is no net benefit at

1 Metcalf, do you see any significance in that
2 factor?

3 MR. HARRIS: I'm going to object and ask
4 that you define net benefit. I'm not -- emissions
5 benefit?

6 HEARING OFFICER VALKOSKY: Sustained.

7 CHAIRMAN KEESE: He just said that
8 on --

9 MR. SCHOLZ: Mr. Harris' question on
10 redirect were if you're making a correlation
11 between NOx emissions from an older 240 megawatt
12 power plant to a 600 megawatt power plant at
13 Metcalf.

14 CHAIRMAN KEESE: Right. And you want to
15 clarify --

16 MR. SCHOLZ: And I want to clarify --

17 CHAIRMAN KEESE: -- what his number was?

18 MR. SCHOLZ: Not the number, but in his
19 testimony he's showing that there's an emission
20 net benefit for the Crockett cogeneration
21 facility, which would mean an improvement to that
22 community. Not a negative. It wouldn't be seen
23 as a negative, it would be seen as a positive.

24 And whereas we don't have that same
25 positive at Metcalf. Is there any significance to

1 that?

2 PRESIDING MEMBER LAURIE: Do you
3 understand the question, sir, and can you respond?

4 MR. HULBERG: Well, I don't think that
5 was part of the testimony that I just gave. I
6 think that my testimony had to do with why I
7 thought lesser output to the plants were germane
8 to studying Metcalf. I think that was the gist of
9 it.

10 However, we may be talking about -- yes,
11 it is the case that when Crockett was built it did
12 eliminate some of the low grade facilities that
13 were in that area that were emitting more
14 pollution. And it was a general feeling by a
15 number of people that we talked to at Crockett
16 that felt that the plant, that was one reason why
17 the Crockett plant was a good thing for the
18 community.

19 PRESIDING MEMBER LAURIE: Okay, that's
20 as far as we're going to go on that, Mr. Scholz.

21 MR. SCHOLZ: My only question.

22 HEARING OFFICER VALKOSKY: Mr. Ajlouny.

23 MR. AJLOUNY: I think Mollie was -- I
24 can go, but -- she does such a better job than me,
25 then maybe I wouldn't have to speak.

1 RECROSS-EXAMINATION

2 BY MR. AJLOUNY:

3 Q. In regards to those four locations in
4 cross-examination, do you feel that the people
5 know how much NOx is coming out a plant when they
6 drive by, or when they live in the neighborhood?
7 They go, oh, yeah, that's 500 tons a day? Do they
8 know that?

9 MR. HULBERG: Not by the stacks, no.

10 MR. AJLOUNY: So basically they probably
11 feel maybe the EPA says it's okay, they might feel
12 comfortable with it? Or some kind of organization
13 that oversees emissions?

14 MR. HULBERG: Yes, I think the short
15 answer is yes. I think that's the same thing as
16 when and if Metcalf is up and built, if you ask a
17 hundred people in the neighborhood, I would think
18 that maybe one will be able to tell you what the
19 emissions are.

20 MR. AJLOUNY: Okay. So the bottomline
21 is the testimony you just said that when people,
22 they did comparisons about NOx and this one plant
23 is going to have more NOx than this other plant,
24 they wouldn't really know that. That wouldn't
25 have any effect on property value or whether they

1 liked being there or not being there, because they
2 wouldn't know that. Is that true?

3 MR. HULBERG: Well, yes and no. To the
4 extent that -- no, to the extent that most people
5 think there's a plant there and it's no big deal.
6 In fact, we had several people that have been
7 active realtors in neighborhoods for years that
8 argue that there was no plant there. They're
9 adamant. And we said, yes, there is a plant.

10 But, so to that extent, no, people aren't
11 going to notice.

12 But to the extent that if there is an
13 issue, if there is a worry, why are people
14 worried. Well, maybe they're worried because of
15 health issues. Well, what's the best way to try
16 to gauge Metcalf as opposed to these other centers
17 that are being studied, and the VOCs and the NOx
18 emissions. That was the best way to gauge --

19 MR. AJLOUNY: Okay, I'm trying to lead
20 somewhere. So, do you think maybe what would help
21 people be discouraged or encouraged in a
22 neighborhood would be a size factor versus a NOx
23 factor? The size of the plant?

24 MR. HULBERG: I think, yes, the size of
25 the plant and the architectural characteristics of

1 the plant, whether there's any screening,
2 landscape, hill, things of those --

3 HEARING OFFICER VALKOSKY: Okay, when
4 you talk about size you're talking about the
5 physical size of the footprint or size in terms of
6 the generation capacity?

7 MR. HULBERG: The size, the physical
8 appearance of the --

9 HEARING OFFICER VALKOSKY: So the
10 physical footprint, the acreage occupied.

11 MR. HULBERG: Yes.

12 HEARING OFFICER VALKOSKY: Thank you.

13 MR. AJLOUNY: Okay, and that's what I'm
14 getting at, that these smaller plants like the
15 first one, Beth-something, 57 megawatts, I have to
16 imagine maybe that's on a one-acre parcel?

17 MR. HULBERG: It might be on --

18 MR. AJLOUNY: One or two acres?

19 MR. HULBERG: Maybe something like that,
20 yes.

21 MR. AJLOUNY: So, in that same
22 neighborhood, trying to -- I'm trying to use your
23 expert testimony that, you know, you're trying to
24 get something equal, and because you couldn't find
25 anything in California because most of these power

1 plants aren't in neighborhoods in California, so
2 you went to New York. And you're trying to make
3 it equal.

4 Do you think it would be different if
5 someone drove by and saw 14- or 20-acre parcel
6 being taken up by a power plant versus the one or
7 two acre? Would that be a significant difference?

8 MR. HULBERG: Well, hinting at the way
9 you're asking the question it might be, you've got
10 to ask a little further, what's the design. I
11 only showed a photo of one of these.

12 But by and large, most of these other
13 facilities are, you know, they don't have the
14 architectural treatment that Metcalf does. They
15 don't have the landscape treatment.

16 In fact -- and I may stand corrected,
17 but I think that pretty much none of them had any
18 real landscape screening.

19 So, you've got to look beyond that.
20 You've got to look to issues, also is there a hill
21 there? Are they looking at this as opposed to
22 talk about industry, PG&E Metcalf Substation is
23 right in this neighborhood, and that's pretty
24 visible, we think.

25 So, --

1 MR. AJLOUNY: So it's apparent, so like
2 if Metcalf had the big 20-acre parcel and had, you
3 know, Thomas Kincaid painting of open gates to
4 heaven it would make a difference to the -- I
5 mean, is that what you're saying?

6 MR. HULBERG: I think that --

7 MR. AJLOUNY: It sounds like --

8 MR. HULBERG: -- go up in Santa Teresa
9 if Thomas Kincaid was painted on the --

10 MR. AJLOUNY: Okay, but I guess the
11 point I'm making is I'd like a yes or no answer,
12 would it make a difference if someone in New York
13 in that first scenario you went through drove by a
14 one- or two-acre parcel and saw a building; they
15 might not even know it's a power plant. It sounds
16 like these real estate agents that are supposed to
17 know what's there, didn't, swore there wasn't, so
18 it must be kind of small. Versus a 20-acre parcel
19 being -- would there be a difference, do you
20 think, in that community, yes or no?

21 MR. HULBERG: There could be a
22 difference. It just --

23 MR. AJLOUNY: End of my questions, I'm
24 not going to waste any more --

25 PRESIDING MEMBER LAURIE: Well, you

1 can't ask the --

2 MR. AJLOUNY: Well, --

3 PRESIDING MEMBER LAURIE: -- question
4 and then just -- the testimony asked and answered
5 repeatedly was this witness testifies that in his
6 opinion the amount of the megawatts generated is
7 not relevant.

8 But the size of the actual physical
9 plant is one of the characteristics. And you have
10 noted that all the plants are of smaller
11 megawatts, perhaps of smaller footage, and that's
12 noted.

13 So, that's --

14 MR. AJLOUNY: Thank you.

15 HEARING OFFICER VALKOSKY: Okay, Mr.
16 Williams.

17 MR. WILLIAMS: Thank you, sir.

18 PRESIDING MEMBER LAURIE: You're on
19 recross.

20 MR. WILLIAMS: I understand.

21 RECROSS-EXAMINATION

22 BY MR. WILLIAMS:

23 Q With respect to the amount of effluents,
24 question raised by Mr. Harris, do you believe
25 there are other effluents that could have an

1 impact on property values besides NOx?

2 MR. HULBERG: Well, when you say could,
3 yes, there certainly are emissions that could.

4 MR. WILLIAMS: Are you aware of the
5 cooling mode of the plants that you compared to?
6 Were they wet or dry cooling, do you know?

7 MR. HULBERG: I don't know.

8 MR. WILLIAMS: Okay, are you aware of
9 the amount of water effluent that comes from a
10 power plant that is roughly proportional to the
11 megawatts?

12 MR. HULBERG: No.

13 MR. WILLIAMS: Are you aware that there
14 are 12,000 tons of combustion water per day that
15 would come from the Metcalf plant?

16 MR. HARRIS: I'm going to object to
17 these questions as being outside the scope of the
18 redirect.

19 HEARING OFFICER VALKOSKY: Yes, this is
20 way outside, Mr. Williams.

21 MR. WILLIAMS: This relates to the
22 amount of effluence and whether the effluence
23 would have impact on property values. And I
24 allege that --

25 HEARING OFFICER VALKOSKY: Okay, then

1 just ask if in the witness' knowledge the amount
2 of effluence would have any impact on property
3 values.

4 DR. WIKTOROWICZ: Okay. Sir, in your
5 opinion, would the amount of effluence,
6 particularly visible effluence, have impact on
7 property values?

8 MR. HULBERG: The amount of effluence
9 from Metcalf or --

10 MR. WILLIAMS: Yes.

11 MR. HULBERG: My opinion is no.

12 MR. WILLIAMS: Just to clarify, my
13 recollection again it related to the amount of
14 effluence, the Bethpage plant was a repowering
15 project, and reduced the effluence, is that
16 correct?

17 MR. HULBERG: Reduced it from what?

18 MR. WILLIAMS: From roughly 600 to
19 roughly 300 if my memory serves. It's in the
20 table there.

21 Let me make it hypothetical. If a
22 repowering of a power plant reduced effluence,
23 mightn't that appeal to the community and improve
24 real estate values, whereas new effluents would
25 not? A hypothetical question.

1 MR. HULBERG: Certainly potentially if
2 there were an existing plant that was a negative
3 that caused a diminution in value in a
4 neighborhood, and were replaced by a cleaner plant
5 that had a lesser effect, then hypothetically yes.

6 MR. WILLIAMS: Thank you. Is it your
7 understanding that that's what happened to
8 Crockett?

9 MR. HULBERG: My understanding -- I
10 don't have any figures of Crockett as to
11 specifically what the emissions were, but that was
12 a local perception by some people that was
13 reported to us, that Crockett was seen by some as
14 a community benefit for that reason.

15 MR. WILLIAMS: I don't have further
16 questions, thank you.

17 HEARING OFFICER VALKOSKY: Thank you,
18 Mr. Williams. Ms. Dent.

19 RE CROSS-EXAMINATION

20 BY MS. DENT:

21 Q Mr. Hulberg, I want to focus on the
22 comparability of the other facilities, the four
23 other facilities. And just in terms first of
24 physical size, the acreage taken up by the
25 facility.

1 I believe the document that you -- your
2 exhibit today indicates the physical size for the
3 cogen facility in New York was 1.5 acres. Can you
4 tell me the physical size of the largest of the
5 facilities that you studied?

6 MR. HULBERG: Well, Pittsfield I didn't
7 have. On the others, the size noted in my report
8 is 2.5 acres would be the largest, although -- oh,
9 pardon me, Pittsfield is 5 acres. So the largest
10 physical size -- the only problem with that is
11 that number relates to the size of the parcel that
12 it's sitting on, and then you really would have to
13 look at other measures of the physical plant,
14 bulk, what the size of the --

15 MS. DENT: So the physical plant bulk
16 would be smaller than the parcel size that it fits
17 on?

18 MR. HULBERG: Oh, obviously, yes.

19 MS. DENT: So all of those plants are
20 smaller than 5 acres, and in fact, three of them
21 are smaller than 2.5 acres?

22 MR. HULBERG: Yes, right.

23 MS. DENT: Now, do you know anything
24 about the arrangement of the physical facilities
25 on those sites, how many stacks they have, and how

1 high the stacks are?

2 MR. HULBERG: I don't recall offhand. I
3 think if I look back at the combination of photos
4 and notes I might have some sense, but I certainly
5 don't recall.

6 MS. DENT: Do you know if any of those
7 facilities have 145-foot high stacks like Metcalf
8 will have?

9 MR. HULBERG: I don't know.

10 MS. DENT: And in terms of the
11 landscaping and screening and that sort of thing
12 that you mentioned previously, did you indicate
13 whether you knew whether the plume from Metcalf
14 Energy Center would be visible from the Santa
15 Teresa neighborhood?

16 MR. HARRIS: I'm going to object to this
17 question as beyond the scope of the redirect.
18 There was no discussion of plumes.

19 MS. DENT: It's going to the point of
20 the comparability of the facilities which Mr.
21 Harris directly sought to rehabilitate the witness
22 on redirect.

23 And so the question is whether or not
24 the witness knows whether the facility --

25 PRESIDING MEMBER LAURIE: I'm not going

1 to permit questions on the entire issue of the
2 comparability, but only to the limited focus of
3 Mr. Harris' questions.

4 MS. DENT: Mr. Harris asked questions
5 about air emissions, and he asked questions
6 designed to get at whether or not these facilities
7 were comparable in terms of air emissions, and so
8 am I.

9 PRESIDING MEMBER LAURIE: Well, and
10 that's your scope of recross.

11 MS. DENT: Do you know whether or not
12 Metcalf Energy Center and the visible air
13 emissions from Metcalf Energy Center would be
14 comparable to the visible air emissions from these
15 other four projects?

16 MR. HARRIS: I want to restate my
17 objection and seek a ruling.

18 PRESIDING MEMBER LAURIE: Overruled. Do
19 you know the answer to the question? The question
20 was do you know.

21 MR. HULBERG: No.

22 MS. DENT: Thank you. That's all,
23 thanks.

24 HEARING OFFICER VALKOSKY: Thank you.
25 Is there anything else for these witnesses?

1 MR. AJLOUNY: -- thrown out part of a
2 testimony if it seems like kind of like off the
3 wall testimony? I mean I'm just asking --

4 HEARING OFFICER VALKOSKY: Yes, you've
5 had your chance to object already to the admission
6 of the exhibits.

7 MR. AJLOUNY: Well, I know, but we
8 didn't realize until the --

9 HEARING OFFICER VALKOSKY: Yes, there is
10 that opportunity --

11 MR. AJLOUNY: I would like to ask that
12 that section of comparison not be in it. It's
13 just totally inappropriate.

14 PRESIDING MEMBER LAURIE: Overruled.

15 HEARING OFFICER VALKOSKY: In your
16 opinion it is inappropriate. You've made your
17 point.

18 MR. AJLOUNY: Okay, I just.

19 PRESIDING MEMBER LAURIE: You're free to
20 argue --

21 MR. AJLOUNY: I'm not arguing, I just --

22 PRESIDING MEMBER LAURIE: -- the
23 credibility of it.

24 MR. AJLOUNY: Okay.

25 PRESIDING MEMBER LAURIE: In all of your

1 questions you don't have to agree with what the
2 witness says, you're free to disagree.

3 CHAIRMAN KEESE: And in your talking to
4 the Committee, I would answer your question a
5 little that if there are two -- if there are 20
6 people who know the status of power plants being
7 built in the State of California today, it's
8 Commissioner Laurie and myself.

9 And so if -- you're asking a question
10 that has no relevance to reality, I know how I
11 react to that question, and how Commissioner
12 Laurie probably reacts to that question.

13 So in weighing testimony those are the
14 things that we're going to weigh as we come to our
15 decision-making process. So I would just suggest
16 you may not want to go into territory where --

17 MR. AJLOUNY: Okay.

18 CHAIRMAN KEESE: I've heard a few
19 questions today that have no basis in reality.

20 HEARING OFFICER VALKOSKY: Is there
21 anything else for the witnesses? The Committee
22 thanks and excuses the witnesses. Thank you.

23 Okay, next we're going to take a recess
24 in a moment and have a discussion, because, again,
25 it is the Committee's intention to finish the

1 topic of socioeconomic tonight.

2 Regarding the presentation by the Santa
3 Teresa Citizen Action Group, I'll note that the
4 Committee made its best attempt to accommodate the
5 witnesses. As I understand it, both Ms. Cord and
6 Mr. Ryan, however, had left -- have now left
7 because of prior commitments.

8 Right now they're sponsoring exhibit 69,
9 exhibit 70, 71 and 72. Is there any objection to
10 admitting any or all of these under stipulation --

11 MR. HARRIS: Can we have the numbers,
12 again? I'm sorry.

13 HEARING OFFICER VALKOSKY: 69, which is
14 the property value testimony submitted by Mr.
15 Ryan; 70, which is the property value testimony
16 submitted by Ms. Hansen; environmental justice
17 testimony submitted by Mr. Mendoza; and basically
18 a declaration, that's all I have as testimony,
19 entitled, on community petitions.

20 MR. HARRIS: Can I ask one question?

21 HEARING OFFICER VALKOSKY: Certainly.

22 MR. HARRIS: Is Mr. Ryan definitely not
23 coming back tonight? Is that the -- okay, --

24 HEARING OFFICER VALKOSKY: Actually, on
25 the expectation, let's take 72 out of that, the

1 community petitions on the expectation that Ms.
2 Cord will be back tomorrow.

3 So really what we're talking about is
4 the environmental justice and the two property
5 value testimonies.

6 MR. HARRIS: I guess our position would
7 be if they're not going to return we'd accept it
8 on stipulation. If they do come back, we
9 obviously want a chance to ask a couple questions.
10 But assuming no Mr. Ryan and assuming no Ms. Cord
11 later, we'd accept the stipulation.

12 HEARING OFFICER VALKOSKY: And does that
13 go for the testimony of Hansen and Mendoza, too?

14 MR. HARRIS: Yes, those are already --
15 I'm assuming they're not coming back.

16 HEARING OFFICER VALKOSKY: Okay. Staff?

17 MS. WILLIS: Yes, we accept that.

18 HEARING OFFICER VALKOSKY: Any other
19 party? All parties accept it.

20 MR. WILLIAMS: And I'd like to thank Mr.
21 Harris for his courtesy.

22 HEARING OFFICER VALKOSKY: With that, --

23 MR. AJLOUNY: I'll buy you a soda.

24 HEARING OFFICER VALKOSKY: With that
25 we'll admit exhibits 69, 70 and 71, subject to the

1 condition expressed by Mr. Harris.

2 We will reserve exhibit 72 on the
3 expectation of Ms. Cord returns tomorrow. If that
4 does not happen, we'll address it then.

5 And with that we'll have a brief off-
6 the-record discussion right now.

7 (Whereupon, at 6:45 p.m., the hearing
8 was adjourned, to reconvene at 7:15
9 p.m., this same evening.)

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1 EVENING SESSION

2 7:15 p.m.

3 HEARING OFFICER VALKOSKY: Okay, we'll
4 start with staff's witness on socioeconomics. Ms.
5 Willis.

6 MS. WILLIS: Thank you. Staff calls
7 James Adams, and he will need to be sworn in.
8 Whereupon,

9 JAMES ADAMS
10 was called as a witness herein, and after first
11 having been duly sworn, was examined and testified
12 as follows:

13 DIRECT EXAMINATION

14 BY MS. WILLIS:

15 Q Mr. Adams, could you please state your
16 name for the record?

17 A James Adams, A-d-a-m-s.

18 Q Was a statement of your qualifications
19 attached to your testimony?

20 A Yes, it was.

21 Q And could you briefly just state your
22 education and experience as it pertains to
23 socioeconomics?

24 A I have a bachelor of arts and a master
25 of arts degrees in social science, with an

1 emphasis on natural resources, which included
2 basically analyzing socioeconomic impacts of
3 various resource utilization options.

4 And for the last 23 years I've been
5 working on either energy options or other natural
6 resource issues, both looking at a variety of
7 environmental and socioeconomic impacts.

8 Since May of 1999 I've been employed at
9 the Energy Commission and performed approximately
10 a half dozen socioeconomic analyses for various
11 siting projects.

12 Q Thank you. Did you prepare the
13 testimony entitled socioeconomics in the final
14 staff assessment that's been previously marked
15 exhibit 7?

16 A Yes, I did.

17 Q Do you have changes to your written
18 testimony that you are proposing today?

19 A Yes, we had an exhibit that was filed, I
20 believe it was marked number 68 which consisted of
21 one page of changed text, and two tables.

22 In addition, we have passed out today
23 some color-shaded maps showing the demographic
24 breakout for the Metcalf area.

25 This is meant to replace. Apparently

1 when the exhibit was filed there were two figure
2 2's attached and not a figure 1. So today I
3 handed out both a figure 1 and a figure 2, using
4 color-shading.

5 HEARING OFFICER VALKOSKY: And you're
6 talking about exhibit 68?

7 MS. WILLIS: That would be exhibit
8 number 68?

9 MR. ADAMS: Yes, number 68.

10 HEARING OFFICER VALKOSKY: Thank you.

11 BY MS. WILLIS:

12 Q Mr. Adams, did the changes that you
13 proposed today change your conclusions in your
14 testimony?

15 A No, they do not.

16 Q And do the opinions contained in your
17 testimony represent your best professional
18 judgment?

19 A Yes, they do.

20 Q Mr. Adams, what do you look for in
21 conducting a socioeconomic analysis, or more
22 precisely, what did you look for in this
23 particular case?

24 A Basically in a socioeconomic analysis
25 you're taking a look at employment, financial

1 makeup of the community, schools, housing,
2 utilities and other emergency services, including
3 water districts and whatnot, to try to understand
4 what is the socioeconomic setting of the
5 particular project area that you're dealing with,
6 which in this case would include the San Jose
7 statistical area and Santa Clara County.

8 In addition you want to take a look at
9 the impacts from the project on all those areas,
10 as well, which deals with employment and property
11 taxes, effects on schools and utilities and other
12 services, as well.

13 Q Did you find any project impacts?

14 A There were some of what I would
15 characterize minor socioeconomic benefits in the
16 sense of the larger economy of this area that
17 revolve around jobs, property and sales tax, and
18 basic economic activity related to the project.

19 Q Is the Energy Commission Staff required
20 to perform an environmental justice analysis?

21 A Legally we're not required to, but in
22 the last few years environmental justice has
23 arisen in some other cases. So we've taken it on
24 as a policy matter to go ahead and perform an
25 environmental justice analysis using the federal

1 guidelines, the federal directive that Mr. Crisp
2 referred to earlier.

3 Q Did you perform an EJ analysis in this
4 case?

5 A Yes, I did.

6 Q And could you please briefly describe
7 how you did your analysis?

8 A Yes. I'll state it a little bit
9 differently than Mr. Crisp stated it, but
10 basically it has three parts.

11 The first is to do a demographic
12 analysis taking a look at the U.S. Census Bureau
13 data to determine the minority, the percentage of
14 minority and low income populations within an area
15 we determine to be the project impact area, which
16 is approximately a six-mile radius.

17 We've chosen that because that includes
18 most of the impacts, including most of the air
19 quality impacts for these type of siting projects.

20 An additional thing I did was because
21 the 1990 data is so old, we contracted out with a
22 private firm to get an estimated 2000 data to give
23 us a little bit more updated information, until we
24 get the 2000 census data. So that was something
25 that was additionally done.

1 Then we want to determine whether or not
2 there are any significant impacts from the project
3 on these populations. And if there are
4 significant impacts, are they disproportionately
5 adversely affecting those minority and low income
6 populations.

7 Q And what was the result of your
8 analysis?

9 A The results were that there were,
10 particularly with the 2000 estimated demographic
11 data there are some census tracts within six miles
12 that do have more than a 50 percent population of
13 minority.

14 However, there are, after consultations
15 with other staff, it was determined that there
16 were no significant impacts from the project. And
17 therefore no disproportionate or adverse impacts
18 on these populations.

19 Q Mr. Adams, did you conduct any outreach
20 to environmental justice communities?

21 A Yes, we did. We met with members of the
22 Asian, Hispanic and African-American communities.
23 We had a meeting that we were able to schedule
24 with a predominately Hispanic population where we
25 were able to provide translators and materials

1 that were both in English and Spanish, about the
2 project, about public comment forums and other
3 materials to try to get the word out to people
4 that may not have been aware of the process.

5 So, we definitely made that. I think
6 the letter from the NAACP is one example of some
7 of the outreach that we did do.

8 Q In performing an environmental justice
9 analysis are you required to consider children as
10 an environmental justice population?

11 A Well, the federal directive refers
12 primarily to minority and low income populations.
13 It doesn't leave out or specifically mention
14 children or other what we would call sensitive
15 receptors, elderly people.

16 But those populations are considered by
17 staff in public health and air quality analyses.
18 So they were the ones that would focus on that.

19 Q Could you briefly describe the process
20 you went through developing your analysis of the
21 property values?

22 A Yes, the property values issue has come
23 up in previous cases, such as Crockett, and so for
24 this particular application, since it was clear
25 that this was going to be an issue, I required the

1 applicant to produce some additional analyses
2 which were discussed earlier today, to try to take
3 a look at what property values were doing in the
4 local area.

5 To do a literature review to see if
6 there's any studies out there that talk about
7 property impacts from a facility like this.

8 And then also to take a look at some
9 comparative analyses with other power plants and
10 Metcalf.

11 So, those three things were done. And
12 we also hired a consultant, a PhD who is very
13 familiar with real estate impacts related to
14 industrial development.

15 I asked him to review all of the filings
16 of the applicant. I asked him to do his own
17 literature review. And then I reviewed that,
18 myself. And then was able to make a conclusion
19 about property values, bearing in mind that there
20 is very little literature or information that
21 really takes a look at this type of facility in
22 this type of an area, and what the impacts are.

23 There's just not a lot out there. And a
24 lot of it is, you just have to see what's out
25 there and come to your best judgment as to what

1 you think the impact will be.

2 Q In your professional opinion will this
3 project pose any significant adverse impacts in
4 the areas of socioeconomics?

5 A No, it will not.

6 Q Is the project in compliance with all
7 LORS?

8 A Yes, it is.

9 MS. WILLIS: At this time I'd like to
10 move the section on socioeconomics of the final
11 staff assessment into the record. And that was
12 marked exhibit 7. And then the staff assessment
13 changes for the socioeconomics, along with the two
14 colored maps that were marked exhibit 68, into the
15 record.

16 HEARING OFFICER VALKOSKY: Is there
17 objection to admission of that portion of exhibit
18 7, and 68, identified by counsel?

19 MR. HARRIS: No objection.

20 HEARING OFFICER VALKOSKY: Objection
21 from anyone else? Seeing no objection, it's
22 admitted.

23 MS. WILLIS: And this witness is now
24 available for cross-examination.

25 HEARING OFFICER VALKOSKY: Just a couple

1 of preliminary questions.

2 EXAMINATION

3 BY HEARING OFFICER VALKOSKY:

4 Q Mr. Adams, could you briefly explain to
5 me whether and if so, how an environmental justice
6 analysis differs from a regular impact analysis
7 under the California Environmental Quality Act?

8 A Well, in some sense they are similar
9 because you're looking at, for CEQA purposes, as I
10 understand it, you're looking at significant
11 impacts on any population.

12 For an environmental justice analysis,
13 in using the federal guidelines, we are trying to
14 target particularly if there are minority and low
15 income populations, to see if they, as a distinct
16 population, are being disproportionately adversely
17 impacted from a particular project.

18 So, in some sense we are being a little
19 bit more sensitive or specific to these
20 populations beyond which you would normally do in
21 a normal CEQA analysis.

22 Q Thank you On pages 457 to 458 of your
23 testimony there is the following statement at the
24 bottom of the page of 457. It says: The MEC is
25 consistent with the City of San Jose's 2020

1 general plan, which encourages the expansion of
2 the existing industrial and commercial sector of
3 the local economy" et cetera. Is that a still a
4 correct statement, in view of the City Council's
5 action?

6 A That would be incorrect. Obviously it's
7 changed since the time I wrote the testimony.

8 Q Okay, does the City Council's action
9 require, in your opinion, any additional analysis
10 or change in your conclusions contained in your
11 testimony?

12 A It's my understanding that particular
13 issue is more of a -- I would say it's more of a
14 land use issue than it is a socioeconomic issue.
15 But I haven't thought about how I would modify my
16 testimony, given that.

17 Q Would you modify your ultimate
18 conclusions or conditions that you have proposed
19 in your testimony?

20 A No, I would not.

21 Q Okay, on page 458, about two lines up
22 from the last heading, environmental justice,
23 you've got a statement concerning property tax
24 obligation, which ranges from 3- to 5.2 million
25 annually, and then you conclude that the MEC will

1 have a relatively small positive financial impact
2 on the San Jose area.

3 Have you reviewed the testimony referred
4 to as exhibit 73 submitted by the Racquet Club?

5 A I don't believe I have.

6 Q Okay.

7 A Excuse me, are we talking about the
8 Doctor's filing?

9 Q Yes, we are.

10 A Yes, I have reviewed that. I stand
11 corrected.

12 Q Okay. Are you familiar with at least
13 what I read to be one of the main tenets of that
14 testimony, that actually property tax revenues
15 will decrease over the projected life of the
16 project?

17 A Actually I disagree with that. The
18 testimony relies on a study from Mr. Blomquist
19 from 1974 which dealt with a coal-fired power
20 plant in Illinois.

21 And in my view, it's an apples-and-
22 oranges situation, because it's a different type
23 of facility. It's quite a long time ago. It's a
24 different set of environmental regulations and
25 economic criterion.

1 To use that study and come up with a
2 formula basically for calculating out negative
3 impacts on property taxes from Metcalf, I think,
4 in my view, is inappropriate.

5 So I would disagree with his conclusion
6 on that.

7 Q Okay, thank you. And a final question.
8 I believe in your testimony on pages 460 to 461
9 you address the cumulative impacts of the MEC
10 project in conjunction with various others you've
11 identified, is that correct?

12 A That's correct.

13 Q Okay, is it your opinion that the MEC
14 project contributes its pro rata share in terms of
15 either revenue and/or mitigation toward
16 alleviating these impacts below a level of
17 significance?

18 A Yes, it does.

19 Q Thank you.

20 HEARING OFFICER VALKOSKY: Mr. Harris.

21 MR. HARRIS: Mr. Adams has done a
22 fabulous job. We have no questions. Thank you.

23 HEARING OFFICER VALKOSKY: Nothing?

24 MR. HARRIS: Just that editorial comment
25 only.

1 HEARING OFFICER VALKOSKY: Dr.
2 Wiktorowicz.

3 DR. WIKTOROWICZ: May I make one little
4 observation, please, and a request, I should say.
5 Could we please be referred to as Rancho Santa
6 Teresa, rather than the Racquet Club? Gives a
7 different connotation.

8 (Laughter.)

9 DR. WIKTOROWICZ: We are a homeowners
10 association. In fact, the largest in San Jose,
11 so --

12 PRESIDING MEMBER LAURIE: That's my
13 fault and I apologize for that.

14 DR. WIKTOROWICZ: I think The Sacramento
15 Bee has misquoted our function in this whole
16 process, and it might be because of that misnomer.

17 PRESIDING MEMBER LAURIE: And I stand
18 corrected, my apologies.

19 DR. WIKTOROWICZ: Thank you.

20 CROSS-EXAMINATION

21 BY DR. WIKTOROWICZ:

22 Q Mr. Adams, do you acknowledge any
23 relationship between the quality of life of a
24 community and housing prices?

25 A Yes, I would say there is a connection.

1 Q And likewise then, if there were a
2 decrease in housing prices, or even for that
3 matter an increase in housing prices, would you
4 also accept that the quality of life would move
5 accordingly?

6 A I'm not sure I would say that there's a
7 direct correlation. In other words, if the
8 housing prices were to go up that somehow that
9 would imply that the quality of life for that
10 community went up.

11 There may be some -- that's one
12 indicator, but that doesn't necessarily mean that
13 the quality is going up.

14 And conversely, if the housing prices go
15 down, for whatever reason, the market or interest
16 rates, I wouldn't assume that that meant that the
17 quality of life in the area went down.

18 So, I think it's a bit tenuous to tie
19 those two together.

20 Q But you do acknowledge there is a
21 relationship --

22 A There may be in some situations that
23 it's an indicator of quality of life, but I think
24 it's very specific to circumstances.

25 Q Would you also acknowledge that a

1 community would consider the quality of life of
2 its areas to be paramount in terms of its control
3 of its environment and essentially its existence,
4 that it might be the most important thing to that
5 community?

6 A I would think that's a consideration. I
7 could see where that would be a consideration,
8 whether or not it's most important, I don't know.

9 Q I'm making the point because I want to
10 insure that nobody trivializes this aspect of the
11 evidentiary hearings. Socioeconomics and property
12 values is not just a mercenary consideration of an
13 individual's net worth. It is truly reflective of
14 the quality of life of that community. And that
15 community insists that that quality of life either
16 be maintained or improved by its decision-makers.

17 A I understand.

18 Q Thank you. To what extent did the
19 applicant's analysis of the effect on housing
20 prices impact your analysis on the property
21 values?

22 A Well, I think that I would agree with
23 some of the comments that were made earlier in Mr.
24 Troy's analysis where I think you could argue
25 about that there really isn't enough data on some

1 of these analyses to really definitively say that,
2 for instance, the announcement of the building of
3 the plant would or would not have an impact.

4 Some of the studies I reviewed showed
5 that once a plant was constructed there were some
6 noticeable impacts. And in some cases they
7 disappeared within a year or two.

8 So, I do think there are some
9 questionable assumptions in some of the analyses.
10 But I think overall that really doesn't change my
11 analysis in the sense that I do not see any
12 information that shows there will be an adverse
13 impact on property values in this area at this
14 time with the market the way it is. And basically
15 that's the bottomline conclusion.

16 Q Do you think it's important in your
17 testimony here, as represented by the FSA, that
18 your evaluation of applicant's evidence be
19 considered, that you express your evaluation --

20 A It was a part of the evaluation that I
21 took a look at their analyses; I took a look at
22 Mr. Troy's; I reviewed the literature, myself.
23 And came to the conclusion, factoring all of that
24 in, to come up with my general conclusion.

25 Q But you didn't express your

1 consideration of their submission at all in the
2 FSA?

3 A I did not cite it. I did mention that I
4 required it, and that I reviewed it. But I didn't
5 do a specific cite on it, no.

6 Q You stated that a consultant was hired
7 to review the applicant's supplemental analysis?

8 A That's correct.

9 Q -- Troy? I refer you to a fax from him
10 to you.

11 DR. WIKTOROWICZ: And I don't know if
12 it's appropriate at this point in time to move
13 this into testimony as an exhibit. It is the --

14 HEARING OFFICER VALKOSKY: Could you
15 identify it further?

16 DR. WIKTOROWICZ: Sure. It's entitled,
17 The property value effects of siting a natural gas
18 power plant: A summary of relevant findings, by
19 Austin Troy for the California Energy Commission,
20 dated November 1999.

21 It's referred to in the FSA by Mr.
22 Adams. But I don't see --

23 HEARING OFFICER VALKOSKY: Okay, has
24 that report been docketed, the Troy report?

25 MR. ADAMS: Yes.

1 HEARING OFFICER VALKOSKY: Has it?

2 MS. WILLIS: Yes, it has.

3 MR. HARRIS: Was it served on all --

4 HEARING OFFICER VALKOSKY: Do you know
5 if it was served on all parties?

6 MS. WILLIS: Yes, it was.

7 HEARING OFFICER VALKOSKY: Okay. Mr.
8 Richins?

9 MR. RICHINS: I can't recall precisely
10 if it was served on all the parties, but at a
11 minimum a letter went out to all the parties
12 saying that it was available. But I can't
13 remember if we mailed it out to everybody, or just
14 sent it to the Doctor, based on his request at a
15 workshop we had.

16 HEARING OFFICER VALKOSKY: Mr. Harris?

17 MR. HARRIS: I'm mistaken. We have it,
18 and we've had it for some time. It was apparently
19 served on us.

20 DR. WIKTOROWICZ: Mr. Hulberg admitted
21 that he had seen it, so --

22 MR. HARRIS: Yes, --

23 HEARING OFFICER VALKOSKY: All right, --

24 MR. HARRIS: My mistake, I'm sorry.

25 HEARING OFFICER VALKOSKY: My only

1 concern is that it has been publicly available.
2 If you could identify that as exhibit 82, and,
3 sir, if you could just read the title and the date
4 so that I have it correctly for the record?

5 DR. WIKTOROWICZ: The property value
6 effects of siting a natural gas power plant: A
7 summary of relevant studies, by Austin Troy, for
8 the California Energy Commission, November 1999.

9 HEARING OFFICER VALKOSKY: Okay, is
10 there any objections to the admissibility of the
11 document we've just identified as exhibit 82, the
12 Troy report?

13 MS. WILLIS: No objection.

14 MR. HARRIS: No objection.

15 HEARING OFFICER VALKOSKY: Fine, it's
16 admitted.

17 BY DR. WIKTOROWICZ:

18 Q Now, I have the cover sheet of the fax
19 that he sent to you. I'd refer to that. And if I
20 could just simply quote from it, he says: Jim,
21 here's the literature review. Please give me a
22 call on Monday and let me know if this looks
23 okay."

24 My question to you is did it look okay
25 to you?

1 A In a nutshell, yes. I asked him to do
2 basically what he did, and I remember I had some
3 discussions with him where I thought some of the
4 points he made were in my mind a little off the
5 mark, but in general he did what I asked him to
6 do.

7 Q So, in other words, you feel that in
8 general his analysis was acceptable?

9 A Yes, it was, in general.

10 Q Thank you. Where in the FSA do you
11 recount your consultant's analysis?

12 A There's a citation on --

13 Q Yes, there is a citation.

14 A -- page 460.

15 Q Yes. And in that citation you basically
16 acknowledge that he conducted a review of the
17 literature, and to review the applicant's
18 supplemental analysis.

19 A Yes.

20 Q I don't see anywhere that you discuss in
21 any sense or in any detail his findings and the
22 relevance of his findings to the property values
23 and socioeconomic values.

24 A Yes. What I did was I referenced what I
25 asked him to do and then I made a conclusionary

1 statement based on his analysis and based on what
2 the applicant had done to basically make my
3 conclusion that I didn't think there would be any
4 adverse impact on the property values.

5 I didn't think I needed to go into a
6 lengthy discussion of exactly what he said, or
7 compare it to what the applicant said. I just
8 reviewed it all and came to a conclusion, and
9 that's what I put in there. I thought that was
10 sufficient.

11 These are very lengthy documents, and
12 I'm sure the Commissioners don't want an extra
13 five or six pages discussing the intricacies of
14 property values.

15 Q Well, my contention, and the original
16 questions I was asking you is exactly to that
17 point. We do feel it's a very important issue,
18 worthy more than just two-paragraph summary.

19 In particular, in view of the documents
20 submitted by the applicant and your own
21 consultant's testimony, we feel that both were
22 very comprehensive and very important to this
23 issue.

24 So, we disagree on that point. And I
25 don't know, I guess the Commissioners will have to

1 decide for themselves whether this is an
2 adequate -- whether you've adequately addressed
3 the issue. There's no question there, you don't
4 need to respond.

5 Let's see, regarding the one last point
6 about the applicant's submission. When you
7 reviewed it, were you -- we pointed out in our
8 cross-examination of Mr. Hulberg some deficiencies
9 in his categorizing of his data.

10 Were you able to discover those, as
11 well, or did you not see those?

12 MS. WILLIS: I'm going to object. I
13 don't quite know that those deficiencies were
14 necessarily determined to be that. And I'm not
15 sure that Mr. Adams has determined that whatever
16 you've considered to be deficiencies as
17 deficiencies.

18 HEARING OFFICER VALKOSKY: Yes,
19 sustained. Rephrase the question. You're
20 presuming that the witness agrees that they're
21 deficiencies.

22 DR. WIKTOROWICZ: Fair enough. I
23 shouldn't use deficiencies, I should use the word
24 discrepancy.

25 //

1 BY DR. WIKTOROWICZ:

2 Q We pointed out a discrepancy in Mr.
3 Hulberg's summary of his real estate interviews in
4 which he claimed no impact, and in cases for homes
5 that were sold before the announcement.

6 We also showed that in many cases he
7 claimed no impact on interviews of realtors who
8 basically did not disclose the possibility of the
9 power plant.

10 Is that a fair rephrasing of the
11 question? Did you notice those discrepancies?

12 A The discrepancies being when the homes
13 were sold, or the discrepancy being -- could you
14 clarify that?

15 Q Sure, sure, in fact, it might be easier
16 just to refer, just as an example of that, to page
17 22A of his submittal.

18 I'm responding to his request for
19 clarification.

20 For example, in the table that's
21 entitled, survey of sales Basking Ridge. Do you
22 have that?

23 A Yeah, actually I don't believe I have a
24 copy of that in front of me. So it would be
25 difficult for me to --

1 Q You can have mine.

2 DR. WIKTOROWICZ: Can you pass that --

3 (Pause.)

4 HEARING OFFICER VALKOSKY: Okay, just so
5 we haven't lost track, would you specify the
6 document to which you're referring and which the
7 witness now has in front of him?

8 DR. WIKTOROWICZ: It's the proximity
9 study proposed Metcalf Energy Center, dated
10 October 11, 1999, by Hulberg and Associates.

11 HEARING OFFICER VALKOSKY: Thank you.

12 BY DR. WIKTOROWICZ:

13 Q I refer specifically to the chart on
14 page 22A. This is the unnumbered page after page
15 22. And I would also like to refer to the summary
16 of that chart located what I'm labeling as page
17 23E, which is the fifth page after page 23,
18 entitled Basking Ridge Metcalf plant impact study.

19 A The paging is not really obvious here,
20 so --

21 Q Yeah, the --

22 A -- there's -- I see page 23 and then
23 there's a series of charts --

24 Q Right, bargraphs.

25 A -- bargraphs --

1 Q There's one entitled -- the fifth one
2 after page 23.

3 A Okay, Basking Ridge Metcalf --

4 Q Yes.

5 A -- impact, I have that, yes.

6 Q And you have the chart, as well, in
7 front of you?

8 A Yes.

9 Q Okay, I'd like to point out four
10 examples of sales dates that all predate the
11 public announcement of the power plant. That is,
12 I'll give you the addresses so you can refer to
13 that. 664 Esplanade Lane. There the sale date is
14 1/18/99, predating the announcement.

15 The next one is 732 Schoolhouse Road,
16 right below it. Sale date 2/1/99, predating the
17 announcement. The one below that, 746 Ashton Oaks
18 Way, dated 1/28/99, also predating. And the
19 fourth one is 6736 Gentry Oaks Place; sale date
20 1/8/99.

21 Do you see those four?

22 A I see those four, yes.

23 Q Okay. If you pull those out of the
24 analysis there are seven no-impact evaluations
25 from his data. But yet if you look at the Basking

1 Ridge bargraph it shows 11 no impact.

2 A So what is the nature of your question?

3 Q So my question is were you aware of this
4 discrepancy that he has added in as a no impact
5 four sales that happened before the announcement?

6 A I was unaware of the discrepancy. I
7 heard the witness say that the way he was viewing
8 this in terms of whether or not there was
9 disclosure, and how that affected impact. At the
10 time that I reviewed that I wasn't really clear on
11 what was meant by that. So, I didn't identify the
12 discrepancy the way that I heard it discussed
13 today.

14 Q Okay. In this case he's actually
15 included those that were sold before the
16 announcement as having no impact. I just wanted
17 to -- my question is, and I've already asked it
18 and you've already answered it, you were unaware
19 of the discrepancies.

20 And those did not enter into your
21 evaluation of the relevance of this document?

22 A No, it did not.

23 Q Okay, thank you. I'm sorry. You
24 mentioned in -- actually your consultant mentions
25 in his evaluation that staff encountered concerns

1 from citizens about housing prices at Crockett,
2 San Francisco and Sutter. You actually do mention
3 it in your --

4 A Yes.

5 Q Is it not true that the FSA for the
6 Crockett plant suggested, quote, "there may be
7 some adverse effects on property values" unquote,
8 due in part to the negative visual impacts?

9 A Actually I didn't do the analysis for
10 that project, so I can't really characterize what
11 that meant or what analysis went into making that
12 statement. It would be speculation on my part.

13 Q I see, so, okay. Austin Troy did, and
14 if you want me to refer to his statement, it's on
15 page 6, his first sentence of his third full
16 paragraph.

17 Here he refers to the final staff
18 assessment for the Crockett plant, and he says:
19 The final staff assessment for the Crockett plant,
20 however is not in full agreement with the
21 applicant's study, which suggests that there may
22 be some adverse effects on property values."

23 A And your question?

24 Q I think you answered it that you weren't
25 aware of that.

1 But here's an example of a final staff
2 assessment for a power plant showing that there is
3 negative impacts on property values.

4 A Well, the way he said it was that there
5 may be some adverse impacts related to property
6 values. And I believe I had a discussion with him
7 and his thought was that he had not done an
8 adequate analysis of Crockett to feel confident as
9 to whether or not there were any adverse impacts.
10 And in fact, he was critical, I think, of
11 including Crockett or the way Crockett was
12 referred to in the applicant's study, simply
13 because there's just not enough data. There's not
14 enough sales.

15 So I don't think he -- he's saying it
16 may have adverse impacts, but not that it did.
17 And it needed further analysis.

18 Q Let me just clarify, he's not here, of
19 course, to answer the question, but he basically
20 says that he's quoting from the final staff
21 assessment.

22 MS. WILLIS: I'm going to object. I
23 don't see a quote. Are you referring to an exact
24 quote?

25 DR. WIKTOROWICZ: Yes, I am, page 6.

1 MR. ADAMS: Yes.

2 DR. WIKTOROWICZ: If you'll see the
3 topic entitled, internal studies and reviews.

4 MR. ADAMS: Yes, page 6.

5 DR. WIKTOROWICZ: Do you see that? Now
6 count down to the third paragraph, first sentence.

7 MR. ADAMS: Yes, see, that's not -- in
8 my view that is not a quote. Basically what he's
9 saying is it's not -- the final staff assessment
10 for Crockett is not in full agreement with the
11 applicant's study, which suggests that there may
12 be some adverse impacts.

13 That's not a quote from the FSA. I
14 think that's his looking at the Crockett FSA and
15 saying that what the applicant was saying and what
16 the analyst was saying in that case are maybe not
17 congruent, and that there may be some adverse
18 impacts.

19 But that's a different statement than
20 saying there were adverse impacts and he's quoting
21 the FSA saying that.

22 BY DR. WIKTOROWICZ:

23 Q I see. Are you familiar with the final
24 staff assessment for the Crockett plant?

25 A I have not reviewed the socioeconomic

1 analysis for that plant, no.

2 Q All right, so you are interpreting that
3 statement.

4 DR. WIKTOROWICZ: Is anybody here? Can
5 anybody verify whether the final staff assessment
6 does or does not quote adverse effects --

7 HEARING OFFICER VALKOSKY: Well, I would
8 suggest that since the Commission had issued a
9 decision on that case several years ago, it really
10 doesn't make any difference what the final staff
11 assessment says. It's whether the Commission
12 decision, itself, addresses it, and the findings
13 made by the Commission, to the extent, and I don't
14 know to what extent that is covered, are a matter
15 of public record.

16 DR. WIKTOROWICZ: Okay, I'll just --

17 HEARING OFFICER VALKOSKY: If you'd like
18 we can take official notice of the Commission
19 decision.

20 DR. WIKTOROWICZ: Okay, I would
21 appreciate that --

22 HEARING OFFICER VALKOSKY: It says what
23 it says.

24 DR. WIKTOROWICZ: -- only in light of
25 the fact that there's been several -- quite a bit

1 of testimony here today in which several people
2 have stated that they have never recognized any
3 impact on property values for the siting of the
4 power plant.

5 HEARING OFFICER VALKOSKY: Okay, is
6 there objection to the Committee taking official
7 notice of the Commission's final decision on the
8 Crockett cogeneration project, to the extent that
9 that decision contains Commission findings
10 concerning property valuation, or impacts on
11 property values?

12 MR. HARRIS: Just so I'm clear, we're
13 talking about direct quotes from the decision, not
14 interpretations made by the Doctor --

15 HEARING OFFICER VALKOSKY: We're talking
16 about direct quotes from the decision, and
17 preferably findings, to the extent there are any.
18 And I don't know if there are.

19 MR. HARRIS: I think that's within your
20 powers, I don't know if I object whether it
21 matters --

22 (Laughter.)

23 HEARING OFFICER VALKOSKY: I'm just
24 trying to be nice. It is clearly within the
25 Committee's powers.

1 MR. HARRIS: No objection, thank you.

2 DR. WIKTOROWICZ: Thank you.

3 BY DR. WIKTOROWICZ:

4 Q You've stated that there was a
5 deficiency of information that demonstrates an
6 adverse or negative impact on property values
7 directly attributable to a natural gas fired power
8 plant in your FSA.

9 You mentioned that you are now familiar
10 with Professor Blomquist's analysis in which he
11 shows a distinct quantifiable effect on property
12 values as a function of proximity to the plant?
13 You are familiar with that?

14 A Yes, I reviewed that.

15 Q Okay, you also stated that you're
16 familiar with your consultant's evaluation. In
17 his evaluation, and in fact in his literature
18 review, he quotes a paper by Clark and Neves, and
19 it's entitled, an inter-regional hedonic analysis
20 of noxious facility impacts on local wages and
21 property values.

22 You see that in the literature review by
23 your consultants. I'll find it for you. It's the
24 first paper under category 2, studies of other
25 industrial facilities.

1 A And this was the Clark and --

2 Q Clark and Neves.

3 A Yes, I see the citation for that.

4 Q Are you familiar with that paper?

5 A I don't believe I've reviewed that one.

6 I relied on Mr. Troy to take a look at this.

7 There's so many studies, that I wanted him to take
8 a look at it and see what he thought were
9 relevant, rather than having me go through 80
10 studies.

11 Q Okay. The reason I point it out is
12 because there's a very important analysis in that
13 paper, in particular, and I won't bore the
14 Commission, but there is a table that shows the
15 difference in the impact between coal fired and
16 natural fired, he shows the difference between
17 coal fired and natural gas fired plants on
18 property values, the difference is negligible, and
19 could be interpreted to be the same.

20 If you were to read that paper and agree
21 with that chart, would that then change your mind
22 that the Blomquist paper is not relevant because
23 of its -- it addresses a coal fired plant?

24 A Not having reviewed that report or that
25 analysis, I couldn't say what I might conclude

1 from it. I would look at it and see what it says,
2 and then consider what import to give that
3 compared to other information.

4 DR. WIKTOROWICZ: Okay, I would like to
5 submit that this is a paper that directly
6 addresses the relevance of coal fired versus
7 natural gas, and the conclusion is that there is
8 no difference between --

9 MR. HARRIS: Can I note an objection
10 here. We haven't seen that report, and our
11 recollection of that report is that compares oil
12 fired facilities and not natural gas facilities.
13 So absent --

14 HEARING OFFICER VALKOSKY: Okay, Mr.
15 Harris, Mr. Adams is Ms. Willis' witness, not
16 yours. It's not appropriate for you to make the
17 objection.

18 DR. WIKTOROWICZ: Can I respond to his
19 objection even though he didn't make it?

20 (Laughter.)

21 HEARING OFFICER VALKOSKY: No.

22 DR. WIKTOROWICZ: I won't. It will be
23 part of our testimony then. Maybe you can ask us
24 that question.

25 CHAIRMAN KEESE: If there's time before

1 the hearing's over.

2 DR. WIKTOROWICZ: Okay.

3 (Laughter.)

4 BY DR. WIKTOROWICZ:

5 Q All right, do you believe that the
6 impact on property values of siting a power plant
7 near a residential community can be accurately
8 predicted during the rumor phase? During the
9 phase in which no actual decision is made? Do you
10 believe that its future impact can be accurately
11 estimated?

12 A I have seen no information presented
13 that shows that the rumor of a power plant being
14 sited would have an impact on property values.

15 Q So, you're not aware of any credible
16 independent studies that address that?

17 A I am unaware of any studies.

18 Q Do you believe that this would be
19 important if such a paper existed, to inform the
20 Commissioners of such a finding?

21 A Certainly any analysis that had some
22 conclusions about property values and siting power
23 plants, or the rumor of siting power plants, would
24 be something that would need to be reviewed.

25 And if I thought it was worthwhile I'd

1 certainly make it available to, you know, as part
2 of my analysis, and the Committee and the
3 Commission could review it.

4 Q Okay. In your consultant's literature
5 review I'd like to point you to a paper by Kiel
6 and McClain. And in fact it's paper number third
7 after Clark and Neves that I just pointed out to
8 you.

9 A And which document is this, again?

10 Q This is the same Troy -- Austin Troy --

11 A The literature review?

12 Q Yeah.

13 A The literature review, and what page was
14 that?

15 Q Page 8 under category 2. It's by Kiel
16 and McClain, 1995A, entitled, House prices during
17 siting decision stages: The case of an
18 incinerator from rumor through operation.

19 A Um-hum, I see that.

20 Q Okay. Does the title suggest that this
21 might be relevant to this issue?

22 A Again, not having reviewed that study I
23 can't make any conclusions based on what the title
24 sounds like. I would have to look at the study
25 and see if it was relevant in terms of -- just the

1 title, itself, does not tell me what it concludes
2 or whether or not it's relevant to this particular
3 project.

4 Q But it might be characteristic. If I
5 told you that this paper quantifies the impact, as
6 the siting process evolves from pre-rumor, to
7 rumor, to construction, to online, to ongoing
8 operations, would you consider it to be relevant?

9 A Again, I'd have to review the analysis
10 before I could make that conclusion. Whether or
11 not you could say that to me, as to what the
12 report says, it wouldn't really matter. I would
13 have to take a look at the thing, myself, --

14 PRESIDING MEMBER LAURIE: Sir, along
15 this line of questioning, if you want to attack
16 the credibility of his report because he did not
17 utilize certain research material that you feel
18 appropriate, then you ask your witness whether
19 your witness feels that certain data is critical
20 to a certain analysis. And if he says yes, then
21 that sheds light, or that's relevant to the
22 credibility of his document.

23 So all you have to do is ask him whether
24 or not he reviewed it.

25 DR. WIKTOROWICZ: Okay, thank you. I

1 just wanted to make sure that he did not review
2 it. I needed to make that point. I didn't want
3 to make that statement if he had reviewed it. So
4 I was just establishing that he hadn't reviewed
5 it.

6 PRESIDING MEMBER LAURIE: Okay. Did you
7 ask him whether or not he reviewed it?

8 DR. WIKTOROWICZ: I think I did.

9 PRESIDING MEMBER LAURIE: Okay.

10 BY DR. WIKTOROWICZ:

11 Q I think you answered, too, didn't --
12 that's a question.

13 HEARING OFFICER VALKOSKY: Before we
14 move on, now I'm confused. Did you review the
15 report?

16 MR. ADAMS: I did not.

17 HEARING OFFICER VALKOSKY: Is there any
18 specific reason you did not review the report?

19 MR. ADAMS: Again, there was so much of
20 the literature in so many categories that's
21 precisely why I wanted the applicant to review it,
22 I wanted the consultant to review it, and then
23 give me a summary. Because, given the workload I
24 just don't have the time, frankly, to go through
25 80-some-odd studies.

1 So I was relying on the consultant to
2 give me his summary of the literature.

3 HEARING OFFICER VALKOSKY: Thank you.
4 You may proceed.

5 BY DR. WIKTOROWICZ:

6 Q Not to be contentious, but isn't it fair
7 to assume that since you spent most of your
8 analysis on economic benefits and ignored what
9 appears to be a relatively significant body of
10 literature that could lead you to conclude that
11 there would be great and significant losses to
12 this community, that you might be presenting the
13 Commissioners with a one-sided view that does not
14 do them service or our community?

15 MS. WILLIS: I'm going to object,
16 argumentative.

17 DR. WIKTOROWICZ: I said I didn't want
18 to be argumentative.

19 HEARING OFFICER VALKOSKY: Sustained.
20 Why don't you try breaking your question down into
21 just simple questions, a series of them.

22 DR. WIKTOROWICZ: Okay.

23 BY DR. WIKTOROWICZ:

24 Q Basically it seems to me from your
25 report that you spent more time addressing the

1 positive economic impacts and not very much time
2 addressing the issue of property values. You can
3 just look at the report.

4 My question is do you feel that you gave
5 the property values issue the full attention that
6 it might have deserved?

7 A Yes, I do because unlike, as I
8 understand it in previous cases, we required the
9 applicant to do two or three different analyses.
10 We hired a consultant who is well versed in this
11 material. And, if anything, I thought we did more
12 than we had done previously regarding the issue of
13 property values.

14 And whether or not -- and so, in some
15 sense, just because there's only a paragraph or
16 two that deals with the subject doesn't mean that
17 there wasn't a lot of work and analysis done to
18 try -- to discuss that issue.

19 And I felt that the paragraph that I put
20 in there adequately addressed the property value
21 issue. And, again, it's a question of how much
22 space or how much discussion do I think is
23 warranted on any particular issue.

24 If you notice, there's a lot of subject
25 matters that are only one or two paragraphs, and

1 that's basically what we do to just give the gist
2 of the information that we've analyzed. But that
3 in no way means that I didn't think it was an
4 important issue, or that I didn't pay any
5 attention to or didn't properly review the
6 analyses that I asked to be done.

7 Again, I think the statements in the
8 property values discussion are good summaries and
9 are adequate for the level of analyses that were
10 done.

11 Q When Mr. Valkosky asked you if you were
12 aware of our submission and in particular the
13 Blomquist study, you mentioned that you had been.
14 Am I to assume that you didn't feel that that was
15 important, from what you just said? Or that you
16 didn't investigate all of the supporting
17 literature that went to that analysis?

18 A Actually, Mr. Troy's analysis did talk
19 about the Blomquist study, and he did go into it
20 in some detail. And I reviewed that. That's why
21 I think it is sort of an apples-and-oranges
22 comparison to take the Blomquist study and come up
23 with some calculation and then apply it to Metcalf
24 as a way of showing there's negative property
25 values.

1 I don't think that approach is warranted
2 based on my review of Austin's discussion and
3 summary of that study.

4 Q So then it's fair to say that you agree
5 with Austin Troy's analysis of the Blomquist
6 study?

7 A Yes. He points out that there were
8 deficiencies, a number of deficiencies on the
9 study. And he lays them out. So, I think in some
10 sense, on the one hand he says it's sort of a step
11 in the right direction. But on the other hand
12 there were such deficiencies and flaws in it that
13 it really can't be applied across the board, or to
14 other projects. And that's why he -- he didn't
15 dismiss it, but he said that it's not really on
16 point for something such as Metcalf.

17 Q Would you please read for me the last
18 two sentences, or three sentences of Austin Troy's
19 conclusion regarding the literature, and in
20 particular Blomquist's paper, on page 7. This is
21 for the record, last paragraph.

22 A Okay, and which document is this, again?

23 Q This is Austin Troy's --

24 A Yes, there's three of them. There's the
25 literature review, --

1 Q Yeah, oh, I'm sorry, okay. It's the --

2 A Which one?

3 Q -- it's the one I put into exhibits,
4 property value effects on siting a natural gas --

5 A Okay.

6 Q -- power plant, page 7.

7 A Okay, page 7.

8 Q Let's see, the last paragraph starting
9 with "given that", do you see that?

10 A Yes, I do.

11 Q Would you please read that?

12 A "Given that even the strongest markets
13 eventually experience a downward trend, it seems
14 that assessments of the property values effects of
15 externalities should look at their effects not
16 just under current conditions, but project them
17 under potential future equilibrium conditions. In
18 this sense it may be best to put the most weight
19 on those studies for which we can have the
20 'benefits of doubt.'"

21 "A conservative approach would be to
22 favor studies that look at moderately depressed
23 housing markets with low demand to supply ratios
24 where property impacts may be more pronounced,
25 such as in the case of the Blomquist study."

1 Q Thank you. That is your own
2 consultant's conclusion of the Blomquist study?

3 A And as I recall in my discussions with
4 Austin is that there are very few studies that do
5 exactly what he was requiring there. And even
6 though the Blomquist study dealt with it to some
7 degree, he still thought it had enough flaws to
8 where it was not transportable to another, in this
9 case, something like Metcalf.

10 So, even though again there was some
11 value in what Blomquist did, and Austin would like
12 to see more data and more analyses as he's laid
13 out, but that is just very hard to come by. And
14 that's how I took that particular part of his
15 comment.

16 Q But he does, doesn't he, argue that in
17 this case it should be given the benefit of the
18 doubt and the Blomquist study should be considered
19 valid?

20 A No, I don't believe he's saying the
21 Blomquist study should be valid. He says it is an
22 approach, the way I interpret that. And based on
23 discussion he had earlier.

24 The approach that Blomquist took has
25 some value in it, but it did have inherent flaws

1 and design problems. And therefore was not a
2 valid study to transport to another case or
3 another example.

4 DR. WIKTOROWICZ: I only have one other
5 point and that is I would like to move also into
6 testimony as an exhibit the back half of Troy's
7 analysis entitled, Critique of Metcalf Energy
8 Center attachments SO70A, B and C.

9 HEARING OFFICER VALKOSKY: Again, has
10 that been provided to all the parties?

11 MS. WILLIS: I would believe it has
12 been. I know it's been docketed.

13 MR. HARRIS: It's part of the same
14 document.

15 HEARING OFFICER VALKOSKY: It is part of
16 the same document?

17 DR. WIKTOROWICZ: Oh, it is?

18 MR. HARRIS: Yes, it is.

19 HEARING OFFICER VALKOSKY: Okay, then it
20 is included in exhibit 82.

21 DR. WIKTOROWICZ: Okay, I wasn't aware
22 that it was the same document. It seemed to
23 address an entirely different --

24 MS. WILLIS: I think he received it
25 separately because the first part was a request at

1 a workshop, and then the --

2 DR. WIKTOROWICZ: I see, okay.

3 MS. WILLIS: -- whole package was --

4 DR. WIKTOROWICZ: Then I stand
5 corrected.

6 HEARING OFFICER VALKOSKY: Okay, so all
7 of that is included in what we've identified as
8 exhibit 82, correct?

9 MS. WILLIS: That's correct.

10 HEARING OFFICER VALKOSKY: Thank you.

11 DR. WIKTOROWICZ: I'm finished, thank
12 you.

13 HEARING OFFICER VALKOSKY: Thank you,
14 sir. Mr. Scholz. All right, remember, gentlemen,
15 we've got rough estimates of about five minutes
16 cross-exam, as I understand.

17 CROSS-EXAMINATION

18 BY MR. SCHOLZ:

19 Q Mr. Adams, if there was a determination
20 that there is a negative impact on property
21 values, has the Energy Commission suggested any
22 mitigation for that in the past?

23 A Well, there hasn't been a determination
24 that there has been negative impact on property
25 values in any siting case that I'm aware of. And

1 to the best of my knowledge, the Commission has
2 not decided or even discussed proposed mitigation
3 if that were to take place. So I would have to
4 say no.

5 Q So you don't even have in your mind what
6 you would suggest as mitigation, if there is a
7 negative impact on property values?

8 A No, I have not given that really any
9 full consideration or thought about it in depth.

10 MR. SCHOLZ: Thank you.

11 HEARING OFFICER VALKOSKY: Mr. Ajlouny.

12 MR. AJLOUNY: Thank you.

13 CROSS-EXAMINATION

14 BY MR. AJLOUNY:

15 Q. Hypothetically if coal versus gas fired
16 had no difference in the analysis that was just
17 talked about, would your analysis change? I'm
18 talking about the document that you didn't have a
19 chance to study.

20 But if you studied it and came to the
21 conclusion that coal versus gas fired was no
22 difference, would your analysis change?

23 A I can't say that until I could see what
24 the rationale was for the comparison between the
25 two and why they're the same. And it would just

1 be speculation on my part to say, well, here's
2 what I would do if this were the case.

3 I don't really want to -- I can't, not
4 having reviewed that type of analysis --

5 Q Okay.

6 A -- it's inappropriate for me to comment.

7 Q In your opinion, now that you know about
8 this analysis or this document, would it be
9 worthwhile for the Commission to have you maybe
10 take a couple weeks to look at it, study it, and
11 maybe give a follow-on report of this one piece?
12 Would it be worthwhile?

13 A I'm not exactly sure how that would
14 happen.

15 Q Forget about the procedures. In your
16 opinion would it be worthwhile to do in light of
17 what you've found out today?

18 A I would think it would be worthwhile for
19 me to do some further research and take a look at
20 a couple of these studies, and then decide how I
21 would proceed. Whether or not in this case or
22 future cases.

23 But I would have to review them. I
24 think they're worth reviewing, and I may try to do
25 that, because this issue obviously will come up

1 probably in other siting cases.

2 Q And I don't know how to ask the next
3 question or something, saying is there a way that
4 this could kind of be open for that review, that
5 one section, from staff? Does that --

6 HEARING OFFICER VALKOSKY: Well, Mr.
7 Adams, in view of what you've heard today and the
8 statement you just made, in your opinion is your
9 existing analysis contained in exhibit 7 and 60H,
10 significantly deficient?

11 MR. ADAMS: No, it is not.

12 HEARING OFFICER VALKOSKY: Okay.

13 BY MR. AJLOUNY:

14 Q. Well, I thought i just heard that that
15 analysis would be something significant for you to
16 at least look at. And I just wondered if there's
17 room to keep it open so you can get a chance to
18 look at it.

19 I just want a fair evaluation, right,
20 for the FSA. And it sounds like there's some
21 discovery here of something that you didn't get a
22 chance to look at.

23 So, again, I thought it would be
24 something worthwhile to look at. And your answer
25 is?

1 A My answer is that I would -- I think it
2 would be interesting to look at a couple of these
3 studies. And based on what they said, I would
4 have to decide what, if any, change it would make
5 to my analysis.

6 Q In your best estimate, is there a very
7 very very slight chance that you might change your
8 analysis, even the slightest chance, .01 percent?

9 A That's speculation, I can't comment on
10 that.

11 Q It just sounded from your answer then if
12 it's worthwhile to look at --

13 A It's worthwhile to look, but to base a
14 percent of what it might change by is -- I can't,
15 that's not something I can comment on.

16 Q Okay. Well, I hope there's room for
17 your analysis, and there's a way that you can
18 report back to us on that document in the next few
19 weeks.

20 On page 450 of your testimony, about the
21 third paragraph down, titled, City of San Jose's
22 2020 general plan. You're familiar with that?
23 I'll wait till you get there. Page 450 of the
24 FSA.

25 A Yes, I have it in front of me.

1 Q Okay, and you're familiar with that
2 paragraph about the economical development in the
3 strategy of San Jose?

4 A Are we referring to the paragraph under
5 City of San Jose 2020 general plan?

6 Q Yes.

7 A Yes, I'm familiar with it.

8 Q Okay. So are you aware of the planning
9 department's economical concerns stated in their
10 report?

11 A You mean at the time I wrote this, that
12 report, as I understand it, had not come out.

13 Q That's true.

14 A Okay.

15 Q So, but are you aware now of this
16 planning department's report and their concerns of
17 the economical growth for that area if this power
18 plant went in?

19 A I have not reviewed it directly, but
20 from other staff I have heard that there was some
21 concern. But I haven't reviewed it completely.

22 Q You think that reviewing that report and
23 any statements about economical growth in that
24 area for future growth of businesses going in, the
25 concerns of the City of San Jose, do you think

1 that might help you reconsider your FSA
2 conclusions, your analysis?

3 A I don't think it would in my analysis.
4 I think again that is, it's probably more of a
5 land use question than it is for a socioeconomic
6 question. I presume that that's where it's going
7 to be dealt with, since I did have -- I mean the
8 listings of the general plan are something that I
9 do that, because it has some socioeconomic impact.
10 But in general it's the land use technical staff
11 that really get into the general plan --

12 Q I understand. I didn't want to get into
13 the land use issue, but in the planning department
14 stated, in the planning department's staff report,
15 thank you, it states that the concern about the
16 economical development in that area, if Metcalf
17 went in. Because of whatever the reason, I don't
18 want to quote the whole thing, but that's the gut
19 of it.

20 And because we're talking about
21 economics here and the future growth of San Jose
22 and tax base and things like that, wouldn't you
23 think that might have something to do with your
24 analysis?

25 And I know it didn't come out until

1 after you came out with this FSA. So I'm trying
2 to give you room to kind of reconsider.

3 A Based on my cursory understanding of
4 what this report is, based on my understanding I
5 don't believe it would change my analysis, because
6 basically the analysis concludes there will be
7 some positive socioeconomic benefit to the
8 community via jobs and employment and whatever,
9 and I don't think that would change regardless
10 of -- and we did take a look, you do take a look
11 at cumulative development.

12 I would think that something -- and not
13 having looked at it in depth, something like the
14 Cisco project would have much more impact,
15 socioeconomic impact on the North Coyote Valley
16 than the Metcalf facility has.

17 But I have not looked at that Cisco
18 project in depth, either. But intuitively I would
19 think that that is much more of a driver than the
20 Metcalf facility.

21 Q Driver in the sense of a positive impact
22 for the community?

23 A Or any economic growth impact and that
24 can be beneficial or it can be, you know,
25 deleterious. I mean congestion, further

1 aggravating the housing shortage. There's a wide
2 variety of socioeconomic impacts that that
3 project, the Cisco project might have.

4 And I think, not having looked at it, I
5 would think that it might have, you know, quite a
6 bit more than the Metcalf project.

7 But, in any case, it doesn't change my
8 analysis of the conclusion of the socioeconomic
9 impacts of Metcalf.

10 Q Okay, well, again, and I'm not talking
11 about the land use issue, I was talking more on
12 the statement of the economical development of
13 that area and for all of us.

14 So, you're not familiar with that, so
15 I'm not knocking you for not knowing about it with
16 the FSA, because it came out after. But I would
17 think that you'd want to look at that report. And
18 you haven't had a chance to, I take it?

19 A That's correct.

20 Q On page 458 of the FSA, second paragraph
21 down, are you there? There's some statements
22 talking about based on the personal
23 communications, member of the San Jose Fire
24 Department and so forth, are you familiar with
25 that paragraph?

1 A Yes, I am.

2 Q Okay. In your sentence stating, the
3 hazardous materials team is located in the
4 northern part of San Jose and could be delayed by
5 traffic if called on to respond to an emergency at
6 the Metcalf station.

7 Can you help me understand, elaborate on
8 why that statement is there?

9 A This was actually an issue that was
10 brought to my attention by a gentleman, Mr.
11 Buzzetta, but we decided, since it really wasn't a
12 socioeconomic issue, that it really belongs with
13 worker safety and fire protection and/or hazardous
14 materials.

15 So those technical staff basically took
16 that issue and dealt with it. And I didn't deal
17 with it anymore because it seemed more appropriate
18 to be in their analysis than mine.

19 Q Okay, I guess reading your analysis I
20 didn't come to that -- I didn't see that. I just
21 saw you address it, but then nothing to conclude
22 about hazardous material. So maybe you can help
23 me out with that?

24 A Actually there was a part of my analysis
25 did say refer to --

1 Q Yes.

2 A -- yeah, here we go in the conclusions
3 and recommendations on page 464. Yes, the very
4 same page, page 458, the paragraph just below
5 that, if you notice that it does say that there
6 was a condition of certification related to the
7 new fire station, related equipment, and it's
8 contained in the worker safety and fire protection
9 program.

10 And so that's basically my reference to
11 where it is now discussed and where it's
12 conditioned.

13 Q Exactly. But I guess the point I wanted
14 to make is you had that sentence in there, the
15 hazardous materials team. And when I refer -- and
16 I know that's not your section, but when I refer
17 to that section they're just talking about a fire
18 station.

19 And I was just wondering if there was a
20 socioeconomical issue or something regarding the
21 hazardous team that you put in there?

22 MS. WILLIS: I'm going to object. Asked
23 and answered.

24 MR. AJLOUNY: Okay, forget it, I'm done.

25 HEARING OFFICER VALKOSKY: Mr. Williams.

1 MR. WILLIAMS: Thank you, sir. I wanted
2 to focus my questioning largely on page 450. When
3 it comes time to move this section into evidence
4 I'm going to ask that page 450 relating to the
5 compliance with local ordinances and regulations
6 be struck because there's extensive summary in
7 land use.

8 If you would be willing -- there are
9 about 20 pages that deal with local ordinances and
10 regulations --

11 HEARING OFFICER VALKOSKY: Mr. Williams,
12 will --

13 MR. WILLIAMS: So I'm asking them if
14 they'll stipulate to save us a lot of time, --

15 HEARING OFFICER VALKOSKY: Okay, --

16 MR. WILLIAMS: -- which is stipulate to
17 striking the top half of page 450.

18 MS. WILLIS: No. The section on laws,
19 ordinances, regulations and standards is designed
20 to list those laws, ordinances, regulations and
21 standards that the staff looks at when they're
22 doing their analysis. I think this is important
23 to include in this section, as well as every other
24 section in this final staff assessment.

25 HEARING OFFICER VALKOSKY: And,

1 Mr. Williams, I would also note that first the
2 section has already been moved into evidence, and
3 second, I asked Mr. Adams, I believe it was
4 referring to a similar statement on page 458 or
5 thereabouts, concerning conformity with the 2020
6 general plan.

7 And he did admit that wasn't an accurate
8 statement, but that even given the fact that it
9 wasn't an accurate statement, he saw no reason to
10 amend his testimony materially or the conditions
11 imposed, is that a correct summary, Mr. Adams?

12 MR. ADAMS: That is correct.

13 HEARING OFFICER VALKOSKY: Okay.

14 MR. WILLIAMS: And if you could help me,
15 Mr. Valkosky, that's precisely what I'm trying
16 to --

17 HEARING OFFICER VALKOSKY: Right, the
18 point is we've clarified that on the record
19 already. Okay? We've clarified that that is
20 not a --

21 MR. WILLIAMS: A correct statement.

22 HEARING OFFICER VALKOSKY: -- a 100
23 percent true statement. We have also clarified
24 that in Mr. Adams' opinion he does not need to
25 significantly retract, modify his testimony or his

1 conditions. That's the status of it.

2 MR. WILLIAMS: So, I'm new to this part
3 of the game. How do we pursue such a non
4 sequitur?

5 HEARING OFFICER VALKOSKY: I don't see
6 the non sequitur. I mean we've, you know, --

7 MR. WILLIAMS: Well, he said it's
8 incorrect, but he doesn't see a need to change it.

9 HEARING OFFICER VALKOSKY: Yes. No to
10 change the body of his testimony, the general
11 analysis and the conclusions reached in the
12 testimony.

13 MR. WILLIAMS: So even though the
14 summary of LORS is incorrect, the --

15 HEARING OFFICER VALKOSKY: Yes, we've
16 acknowledged it.

17 MR. WILLIAMS: -- the conclusion is --

18 HEARING OFFICER VALKOSKY: We've
19 acknowledged that that's incorrect, right.

20 No, that's not correct and that's not
21 what it means. It's an inaccuracy in the
22 testimony, that's been noted. It has been
23 clarified, and in the witness' opinion it doesn't
24 require major revisions. That's the status of it.

25 MR. WILLIAMS: Okay, thank you, I'll

1 pass at this point then.

2 HEARING OFFICER VALKOSKY: All right.

3 Redirect?

4 MS. WILLIS: Just a couple of questions.

5 MR. WILLIAMS: Is the City going to --

6 HEARING OFFICER VALKOSKY: I'm sorry.

7 MR. BUIKEMA: Thank you, Mr. Valkosky,
8 I'm Richard Buikema from the City of San Jose. I
9 have a question of the CEC Staff.

10 CROSS-EXAMINATION

11 BY MR. BUIKEMA:

12 Q Do you concur with the applicant's
13 testimony that the proposed power plant's effect
14 on the price of power would constitute a positive
15 socioeconomic benefit to the City of San Jose?

16 A I have actually not reviewed price
17 effects of power purchased via Metcalf and where
18 that power would go. That's really beyond the
19 scope of my analysis. That has to do with
20 transmission system engineering, reliability,
21 other things. So I didn't consider price impacts
22 of power generated by Metcalf and what effect that
23 would be on the San Jose area, no.

24 Q So that's not typically part of a
25 socioeconomic analysis?

1 A No, it's not.

2 MR. BUIKEMA: Thank you very much.

3 HEARING OFFICER VALKOSKY: Is the City
4 done? Okay. Redirect?

5 MS. WILLIS: I just wanted to ask a
6 couple clarifying questions.

7 REDIRECT EXAMINATION

8 BY MS. WILLIS:

9 Q First of all, is it your testimony that
10 there were approximately 80 studies that were
11 reviewed by the consultant or yourself?

12 A That's correct.

13 Q And the fact that you did not review all
14 the studies yourself is because you had a
15 consultant review them?

16 A That's correct.

17 Q And you relied on his summaries and
18 conversations with him to develop your analysis
19 and conclusions, is that correct?

20 A That is correct.

21 Q Also, in the same line is the reason
22 that you didn't consider mitigation for property
23 values is the fact that you did not find any
24 significant adverse impacts to property values, is
25 that correct?

1 A That's correct.

2 MS. WILLIS: That's all I have.

3 HEARING OFFICER VALKOSKY: Okay, Rancho
4 Santa Teresa, recross?

5 RE CROSS-EXAMINATION

6 BY DR. WIKTOROWICZ:

7 Q You did say there were 70 papers that
8 were quoted in this literature? I didn't count
9 them, but --

10 A Actually I would have to count them. I
11 don't know the exact number.

12 Q Something like that. It's easily
13 estimated to be that. It is your testimony
14 therefore that neither you nor your consultant
15 found one single paper relevant to this issue, or
16 one that could even give guidance?

17 A It's my understanding, based on what I
18 have read, and what Mr. Troy put together, that
19 there really isn't a study that takes a look at
20 property value impacts from a facility such as
21 Metcalf, a combined cycle, natural gas fired
22 facility, with state of the art technology, and
23 taking a look at what the impacts on the property
24 values would be from say a year or so, or around
25 the time it was announced through construction and

1 operation to determine, which is what Mr. Troy
2 would like, to determine what the impacts on
3 property values would be.

4 To my knowledge there is no such study.
5 What you're left with are studies about coal
6 plants or nuclear plants or waste sites, or what-
7 have-you. The literature is full of them. But
8 there's really nothing on point to a facility like
9 this.

10 Q Does that also include Mr. Hulberg's
11 analysis?

12 A Yes, I believe Mr. Hulberg's analysis is
13 not what I would characterize as a thorough review
14 and analysis of a power plant over a period of
15 time. Given something like Metcalf. I don't
16 think that has been done yet, to the best of my
17 knowledge.

18 Q Is it fair to say that you've already
19 admitted that the next time you will perhaps
20 review some of these documents?

21 MS. WILLIS: I'm objecting, this is
22 outside the scope of my redirect.

23 HEARING OFFICER VALKOSKY: Sustained.

24 DR. WIKTOROWICZ: Thank you.

25 HEARING OFFICER VALKOSKY: Mr. Scholz.

1 MR. SCHOLZ: The only thing I'm asking
2 the Commission to consider is to leave a section
3 open for this gentleman here to look at those two
4 documents, the planning department document that
5 specifically talks about sociology -- whatever the
6 word --

7 HEARING OFFICER VALKOSKY: It's
8 socioeconomics.

9 MR. SCHOLZ: -- social economics of the
10 City and that plant being there, it specifically
11 talks those words. And also this document of coal
12 versus fire. I just ask the Committee to consider
13 that.

14 HEARING OFFICER VALKOSKY: Okay, does
15 staff need some time to evaluate that and decide
16 whether or not it would desire to supplement its
17 testimony?

18 MR. ADAMS: In my opinion I don't
19 believe I need to look at those studies because
20 what I have read and my discussions with Troy lead
21 me to believe that they are not on point and
22 relevant to this analysis. And therefore, I feel
23 like it wouldn't be a worthwhile activity for me
24 to do that at this point.

25 HEARING OFFICER VALKOSKY: Thank you.

1 Mr. Williams.

2 MR. WILLIAMS: Yes, I'm trying to pursue
3 further the cross-examination that -- or the
4 recross where you stated your opinion of the
5 socioeconomic impact.

6 RECROSS-EXAMINATION

7 BY MR. WILLIAMS:

8 Q Is it true that you stated that there
9 was no socioeconomic impact because you talked to
10 other staff members and they said there were no
11 impacts, so therefore you did not have to consider
12 mitigation? Is that a fair summary of your
13 earlier statement?

14 A I don't believe so.

15 Q Could you restate that point for me
16 then, please?

17 A My conclusion was is there are
18 beneficial, somewhat minor in the larger scope of
19 things, but there are beneficial socioeconomic
20 impacts as a result of the construction and
21 operation of Metcalf.

22 And that's basically my conclusion
23 and --

24 Q And therefore you didn't need to
25 consider mitigation?

1 A Yes. Well, in fact, yes.

2 MR. WILLIAMS: Thank you.

3 HEARING OFFICER VALKOSKY: The City? No
4 questions from the City. Anything else?

5 MR. HARRIS: Just one quick question
6 from the applicant.

7 RE CROSS-EXAMINATION

8 BY MR. HARRIS:

9 Q I want to go back to the document,
10 exhibit 82, which is Mr. Austin Troy's property
11 value effects document. Can you find that
12 document? And specifically I'm looking at page 7.

13 A Is this the one labeled property value
14 effects of siting a natural gas power plant?

15 Q Yes, a summary of relevant studies --

16 A Right. And the page number?

17 Q It's page 7. First paragraph is
18 entitled, conclusions. The third line there,
19 rather than having you read it, I'll read it and
20 ask you whether you reviewed this.

21 "Mr. Troy concludes" -- related to the
22 Blomquist study, and the quote here is: "the
23 Blomquist study, which finds a significant
24 property value impact from a power plant, is the
25 most applicable, but its methods are flawed. Its

1 results are specific to its context, and it
2 represents a different set of externalities from
3 the proposed Metcalf facility."

4 Is that Mr. Austin's conclusion?

5 A Yes, it is.

6 Q Thank you very much.

7 HEARING OFFICER VALKOSKY: Anything else
8 for Mr. Adams? Okay, one question on the scope
9 of --

10 DR. WIKTOROWICZ: That sentence was
11 pulled out of the middle of the first paragraph of
12 the conclusion?

13 MR. HARRIS: And yours was pulled out of
14 the end of the last paragraph.

15 (Laughter.)

16 DR. WIKTOROWICZ: Right, so I would say
17 the last statement supersedes the first one.

18 HEARING OFFICER VALKOSKY: Okay, fine.
19 Anything else for Mr. Adams? With that, the
20 Committee thanks and excuses the witness.

21 MR. ADAMS: Thank you.

22 HEARING OFFICER VALKOSKY: I'd like to
23 go off the record for a moment.

24 (Off the record.)

25 HEARING OFFICER VALKOSKY: While we were

1 off the record we discussed a document known as
2 exhibit 72, which the Santa Teresa Citizen Action
3 Group wishes to sponsor. At this time I'd call
4 upon Ms. Cord to indicate the document that she is
5 talking about. Ms. Cord.

6 MS. CORD: Yes, I have an approximately
7 500-page petition before me here. There's about
8 20 signatures on each page. Some a few less, but
9 generally.

10 Would you like me to read what it says?

11 HEARING OFFICER VALKOSKY: Please just
12 represent what it is.

13 MS. CORD: Other than the names.

14 HEARING OFFICER VALKOSKY: Yes.

15 MS. CORD: Block Calpine Metcalf Power
16 Plant petition to San Jose City Council Member
17 Charlotte Powers, Mayor Gonzalez, and San Jose
18 City Council Members, California Energy
19 Commission.

20 The statement says: We oppose the
21 Calpine power plant proposed for Tulare Hill near
22 Monterey Highway and Metcalf Road. A power plant
23 on this site would have a negative impact on the
24 quality of life of our community. We encourage
25 Calpine to find an alternative site which will not

1 compromise nearby neighborhoods or the campus
2 research office park development planned for
3 Coyote Valley."

4 HEARING OFFICER VALKOSKY: Okay, thank
5 you. And a copy of this petition is available at
6 the San Jose City Council, is that correct?

7 MS. CORD: Correct. We submitted one
8 copy of it to the San Jose City Council on
9 November 28th, and it's available through the City
10 Council.

11 HEARING OFFICER VALKOSKY: Okay. Thank
12 you for those clarifications. Mr. Harris?

13 MR. HARRIS: We certainly don't want to
14 put you through the expense of making those
15 copies. And there's a declaration here. We find
16 that acceptable.

17 HEARING OFFICER VALKOSKY: Okay, so
18 there is no objection to the admission of exhibit
19 72?

20 MR. HARRIS: No objection.

21 HEARING OFFICER VALKOSKY: From staff?

22 MS. WILLIS: No objection.

23 HEARING OFFICER VALKOSKY: From any
24 other -- wait a minute, we'll get there, Mr.
25 Williams -- from any other parties?

1 Mr. Williams.

2 MR. WILLIAMS: Did we indicate the
3 number of signatures on the petition.

4 MS. CORD: Oh, we didn't. I think it's
5 about 7000.

6 MR. HARRIS: I think that's in your
7 testimony, the prefiled testimony.

8 MS. CORD: I did in the prefiled
9 testimony.

10 HEARING OFFICER VALKOSKY: Okay. So
11 with that, there is no objection? That's --

12 MS. CORD: Can I show it to the
13 Commissioners?

14 HEARING OFFICER VALKOSKY: Just a
15 minute. That's admitted.

16 MS. CORD: Thank you.

17 (Off-the-record remarks.)

18 HEARING OFFICER VALKOSKY: Ms. Cord,
19 since you returned -- I'll move to Dr. Wiktorowicz
20 soon, but I also would like to inform you that
21 your other exhibits, exhibit 69, exhibit 70 and 71
22 were admitted by stipulation.

23 MS. CORD: Thank you.

24 HEARING OFFICER VALKOSKY: Okay. All
25 right. Anything else? Proceed, please.

1 MR. HARRIS: Mr. Valkosky.

2 HEARING OFFICER VALKOSKY: Yes.

3 MR. HARRIS: We do have a representative
4 from the NAACP who would like to make public
5 comment, if that's appropriate at this time.

6 HEARING OFFICER VALKOSKY: Is it a
7 question of availability, because we still have to
8 proceed with Rancho Santa Teresa.

9 MR. HARRIS: He will be available until
10 the end apparently.

11 HEARING OFFICER VALKOSKY: Okay. I'd
12 just as soon go --

13 MR. HARRIS: He may not know what he
14 signed up for by saying that.

15 HEARING OFFICER VALKOSKY: -- I'd like
16 to go through the evidentiary presentations.

17 Doctor, proceed.

18 DR. WIKTOROWICZ: Yeah, I'd like some
19 guidance, if I could, at this point. I have my
20 expert witness here who will certainly testify and
21 go through the process.

22 But I've also written part of the
23 submission, myself. And I spoke with you about
24 this earlier. How shall I handle my part of the
25 testimony if it comes to questioning?

1 HEARING OFFICER VALKOSKY: Okay, let me
2 start off, is there any objection to the
3 qualifications of the witnesses?

4 MR. HARRIS: We do have a few questions
5 for the witness on qualifications.

6 HEARING OFFICER VALKOSKY: Okay,
7 questions are different from objections. Are you
8 going to challenge the competency of the witness
9 to testify?

10 MR. HARRIS: Highly unlikely, but that
11 will be based upon the answers to the questions we
12 have on qualifications.

13 HEARING OFFICER VALKOSKY: Okay. Next
14 question is do you object to having the witnesses
15 testify as a panel, assuming both are competent to
16 testify on the subject.

17 MR. HARRIS: My understanding, from
18 talking to the Doctor, was that there is I guess
19 the first page is his doings, and then the rest of
20 this is Professor Watkins. And so my
21 understanding was that if I had questions about
22 the first page, I could ask Professor Watkins
23 about that. So there's only one witness. Is that
24 still the case, Doctor?

25 DR. WIKTOROWICZ: Actually, page 11, 12,

1 13 and 14 I wrote. However, if necessary, I
2 believe Professor Watkins will state his support
3 of it and be prepared to testify --

4 HEARING OFFICER VALKOSKY: Okay, Mr.
5 Harris, do you see the necessity of having Dr.
6 Wiktorowicz testify to any of those pages of that
7 material? Or would you be satisfied with
8 responses from Dr. Watkins?

9 MR. HARRIS: Let me make a suggestion.
10 In terms of the direct testimony, or my cross-
11 examination, I would allow either one of them, on
12 a panel -- it's going to be kind of unusual. He's
13 presenting direct testimony essentially as the
14 attorney, but he's also available to answer
15 questions about that. So I guess let them be a
16 panel on cross, is that what you --

17 DR. WIKTOROWICZ: That's part of my
18 confusion, too.

19 HEARING OFFICER VALKOSKY: Yes, and --
20 let's go off the record again.

21 (Off the record.)

22 HEARING OFFICER VALKOSKY: Proceed.

23 DIRECT EXAMINATION

24 BY DR. WIKTOROWICZ:

25 Q Please state your name for the record.

1 A Thayer Watkins.

2 Q Are you here to testify in the area of
3 socioeconomics?

4 A Yes.

5 Q Did you prefile your testimony on this
6 matter on January 12, 2001?

7 A Yes.

8 Q Do you have any changes today to your
9 prefiled testimony?

10 A No.

11 Q Was your testimony prepared by you or at
12 your direction?

13 A Yes.

14 Q Was it prepared by you or at your
15 direction?

16 A Well, it was prepared by me.

17 Q Thank you. Are the facts therein true
18 to the best of your knowledge?

19 A Yes.

20 Q Are the opinions stated therein your
21 own?

22 A Yes.

23 Q And do you adopt this as your testimony
24 for this proceeding?

25 A No. Oh, I'm sorry, -- oh, adopt? I

1 thought you said doubt.

2 (Laughter.)

3 BY DR. WIKTOROWICZ:

4 Q I'm glad you answered no.

5 A Yes.

6 Q And was the statement of your
7 qualifications also prefiled on January 12th?

8 A Yes.

9 DR. WIKTOROWICZ: I would like to, for
10 the moment, just point out there are three
11 typographical errors on page 11 of my testimony.
12 I'll take blame for it.

13 In the first sentence I say: In the
14 light of the above analysis by Blomquist and by
15 Thayer." That should be Watkins.

16 In the second paragraph, the last
17 sentence, it says: Correcting for the increase in
18 housing prices since 1999." That should be 1990.

19 And in the middle of the third paragraph
20 I say: However, as described above in Professor
21 Thayer's analysis." It should be Professor
22 Watkins' analysis.

23 MR. AJLOUNY: Stan, can I mention that
24 he hasn't been sworn in.

25 HEARING OFFICER VALKOSKY: Thank you.

1 Thank you.

2 MR. AJLOUNY: I'm here to help.

3 HEARING OFFICER VALKOSKY: Yeah, you do
4 have to have the witness sworn. Sorry I
5 overlooked that.

6 Whereupon,

7 THAYER HOWARD WATKINS
8 was called as a witness herein, and after first
9 having been duly sworn, was examined and testified
10 as follows:

11 HEARING OFFICER VALKOSKY: Okay, back on
12 the record. Proceed.

13 BY DR. WIKTOROWICZ:

14 Q Okay, Professor Watkins, in your
15 estimation is it sufficient to simply establish
16 the property values are increasing in the face of
17 the siting of a noxious facility in order to state
18 that the facility has no impact on property
19 values?

20 A No. And this is something that needs to
21 be clarified. The concept of an impact is where
22 there's a difference between what, in this case,
23 property values would be without the facility, and
24 what they would be with the facility. That
25 difference is the impact.

1 Now, where you have positive factors
2 driving the price up, a negative factor such as
3 the location of the facility, might offset part of
4 that, but not all of it. So that you can have the
5 prices going up, but they just don't go up as much
6 as they would have without the facility.

7 Q You've heard the staff's expert and the
8 applicant's expert state that the coal fired plant
9 quoted in the Blomquist study negated as relevance
10 to MEC. Do you agree that since it discusses the
11 impact of a coal fired plant it has no relevance
12 to MEC?

13 A Well, the literature is clear that
14 facilities of this sort do have a negative impact.
15 The fact that it's a coal fired plant it's not
16 irrelevant because it's a coal fired plant because
17 there's no evidence that the public treats gas
18 fired plants differently than coal fired plants.
19 And in fact you have the study of Clark and Neves,
20 the dis-amenity value of various facilities
21 indicated that the effect of the coal fired plant
22 and the other category was gas and /oil fired
23 plants were essentially the same.

24 Q Staff's consultant criticized
25 Blomquist's analysis. Do you agree with the

1 critique?

2 A I reviewed Austin Troy's -- and Austin
3 Troy is a very competent economist. The thing is
4 it's always good to have more information. The
5 problem is that if you're going to make a decision
6 based upon analysis you have to go with the best
7 information that you have.

8 And what it is, is the best information
9 we have is Blomquist's study. Now, in some of the
10 criticism that were given by Troy, some of them
11 are not relevant to the particular bit of
12 information the ratio of the percentage change in
13 property value to the percentage change in
14 distance from the facility, what the economists
15 call the elasticity, the figure he calculated was
16 .09.

17 And that's robust. That's not affected
18 by some of the criticisms. For example, Austin
19 Troy said that the values were assessment values
20 rather than market values. If there's a
21 proportional relationship between market value and
22 assessment values, then you get the same figure
23 for the elasticity. That is that the ratios will
24 be the same.

25 Likewise for the other criticisms. It's

1 always better to have more information, but if
2 you're going to make a decision you have to go
3 with what you have. And in this case the
4 Blomquist study is the best that we do have. It
5 would be desirable if there had been a similar
6 study done for coal fired plants, but it hasn't
7 been done.

8 Now, economists want a study such as
9 Blomquist did of multivariant statistical analysis
10 where you try to explain the prices of property as
11 a function of all the locational variables and, in
12 this case, use ten of them. The number of things
13 that influence property values.

14 And generally economics would not accept
15 something where you can select the observation
16 points, throw out things. Because in that sort of
17 methodology you can prove anything. You have to
18 have something where there's a statistical data
19 set, and then you do the analysis. Then you can
20 do it in different forms and some of Troy's
21 objections, he called them flaws, but they were
22 simply possible alternative procedures that might
23 have improved it. On the other hand they might
24 not have.

25 But it's really a question of it's

1 always better to have more information so any
2 study that you have you can find little things
3 that you will question, ways that you might have
4 to have it done differently.

5 Q On those points that you agree with the
6 Austin Troy analysis where there were
7 deficiencies, were you able to adjust them in your
8 analysis of Blomquist to make it more --

9 A Yeah, well, by using the elasticity
10 figure it does everything in terms of the
11 percentage changes in prices, that gets away from
12 the problem that the general price level in
13 Winnetka, Illinois was different than it is in San
14 Jose.

15 And I did a calculation to establish
16 that using the elasticity figure, which would give
17 us a conservative estimate of the impact of the
18 facility on the property values, wouldn't
19 exaggerate them.

20 What I meant by that is it would give us
21 a conservative estimate compared to doing a --
22 using a strictly linear function which is what
23 Blomquist study gave.

24 Q Please describe your analysis regarding
25 the relationship between property tax and market

1 value. And how this may ultimately impact the
2 discrepancy between lower taxes, the adjusted
3 Blomquist model, and the property tax revenue from
4 the plan.

5 A Well, this is something I wanted to
6 address because with California property owners
7 they're conscious that under Proposition 13 that
8 their assessed value only goes up by 2 percent a
9 year. So, for people who don't sell their
10 property what happens to the property value
11 doesn't affect their taxes.

12 But in the case of mortal human beings,
13 the title change has to change some time, with
14 death, but it more often is going to change
15 because people sell the property or they may
16 reconstruct the building, in which case the
17 assessed value reverts to the market value.

18 So that in the long run the property tax
19 residential property is going to follow the trend
20 of market value, and would go up by the same
21 percentage per year on average that -- the
22 property tax would go up by, in the long run, by
23 the same percentage that the property value goes
24 up.

25 So, if there's a negative impact on

1 property value, that is that it's lower than it
2 would be otherwise, then property tax collections
3 will be lower than they would have been without
4 the facility.

5 The crucial thing, or a crucial point is
6 that corporate property will generally not been
7 sold, and consequently its assessed value will
8 only go up by the mandated 2 percent a year. So
9 if you have a negative impact on property tax
10 collections on residential property, that's going
11 to grow with the property value.

12 Whereas, the property tax collection
13 from the corporate property is only going to go up
14 by 2 percent a year, so that even if you start off
15 with let's say \$3 million of property tax being
16 paid by the facility and \$2 million less being
17 collected as a result of the impact on property
18 values, there appears to be a net contribution to
19 property tax at the very beginning, but in very
20 short order, that net contribution disappears as
21 the market value of the property goes up, whereas
22 the corporate property only increases 2 percent a
23 year.

24 So it later turns to be a negative.
25 Instead of being a positive contribution there's a

1 negative figure for the impact of the facility on
2 property tax collection.

3 CHAIRMAN KEESE: May I ask -- I'm sorry.

4 PRESIDING MEMBER LAURIE: Well, I was
5 going to ask the purpose for these questions. We
6 do have the prefiled testimony. And we want to
7 leave time for cross-examination.

8 So what we would ordinarily do is just
9 ask for clarifications or corrections, provided
10 there is none, then I think the appropriate step
11 is to offer the testimony in and see if there's
12 any objection to it.

13 And then allow cross-examination on the
14 testimony.

15 DR. WIKTOROWICZ: All right, thank you
16 for the guidance. I just wanted to put into the
17 record the modifications that Professor Watkins
18 did to the Blomquist study so that it's very clear
19 and in the record.

20 With that, I'll be happy to go ahead and
21 move that his testimony be placed into the record
22 as --

23 PRESIDING MEMBER LAURIE: And that
24 includes yours, as well?

25 DR. WIKTOROWICZ: And mine, as well,

1 yes.

2 HEARING OFFICER VALKOSKY: What we're
3 referring to is exhibit 73, is that correct? What
4 we've identified as exhibit 73?

5 DR. WIKTOROWICZ: Yes.

6 HEARING OFFICER VALKOSKY: Okay, is
7 there objection, Mr. Harris?

8 MR. HARRIS: Does this include the
9 qualifications, as well?

10 HEARING OFFICER VALKOSKY: This is the
11 testimony and -- Doctor, do you wish to add your
12 curriculum vitae to your testimony?

13 DR. WIKTOROWICZ: There should be in
14 there --

15 HEARING OFFICER VALKOSKY: No, I mean do
16 you wish to formally add that --

17 DR. WIKTOROWICZ: Yes, please.

18 HEARING OFFICER VALKOSKY: -- as part of
19 your testimony?

20 DR. WIKTOROWICZ: Yes.

21 DR. WATKINS: Yes.

22 HEARING OFFICER VALKOSKY: Okay, fine.

23 MR. HARRIS: Subject to my ability to
24 ask the questions on cross-examination about
25 qualifications.

1 HEARING OFFICER VALKOSKY: Okay, now,
2 again, are you going to go to the admissibility or
3 to the weight?

4 MR. HARRIS: Actually, I want to go into
5 the witnesses' qualifications a little bit, so I'd
6 prefer we hold off moving it into evidence until I
7 get to my cross.

8 HEARING OFFICER VALKOSKY: Okay, we'll
9 hold off until after the end of cross, subject to
10 the objections of Mr. Harris.

11 Does that complete your direct?

12 DR. WIKTOROWICZ: Yes, I believe so.

13 HEARING OFFICER VALKOSKY: Okay. Mr.
14 Harris.

15 MR. HARRIS: Thank you.

16 CROSS-EXAMINATION

17 BY MR. HARRIS:

18 Q For Dr. Watkins, are you a licensed
19 appraiser in California?

20 A No. Of course not. I'm an economist.

21 Q Have you ever taken an appraisal class?

22 A No.

23 Q Do you belong to any appraisal
24 organizations?

25 A No.

1 Q Are you a realtor?

2 A No.

3 Q And have you testified before this
4 Commission in the past?

5 A No.

6 Q Okay. I want to switch gears now and go
7 to the Blomquist study, and proceed with that.

8 You're familiar with the 1974 Blomquist
9 study, is that correct?

10 A Yes.

11 Q In fact, is the basis of your testimony
12 that Blomberg (sic) study? Blomquist, I'm sorry.

13 A That's an important element of it.

14 Q Blomquist study.

15 A Yeah, that's an important element of it.
16 It's not the -- because there's other things then
17 that you have to consider.

18 Q Is that, though, the foundation for your
19 analysis?

20 A That's the foundation for the impact on
21 the property value.

22 Q Was it your testimony previously that
23 the best information available is the Blomquist
24 study?

25 A Yes.

1 Q Okay, so that's still your opinion?

2 A That's right.

3 Q And so your conclusions flow from that
4 study, is that correct?

5 A That's right.

6 Q Okay, the Blomquist study, what year did
7 that take place?

8 A 1974.

9 Q So that's a 1974 study, is that correct?

10 A That's right.

11 Q And that study also looked at coal fired
12 power plants, is that correct?

13 A That's right.

14 Q And so there was no examination of
15 natural gas fired power plants in that --

16 A Well, I'm sure that if there were, then
17 there would be some difference between the gas
18 fired plant there and the Metcalf, because it will
19 never be exactly the same.

20 Q Let me ask the question again. Was
21 there any analysis of natural gas fired power
22 plants in that 1974 study?

23 A No.

24 Q And that power plant was located in
25 Winnetka, Illinois, is that correct?

1 A That's right.

2 Q Although I probably said that
3 incorrectly. Were you aware that that study
4 omitted any houses that had a value over \$50,000?

5 A Yes.

6 Q Okay, so basically that was considered
7 the top-end housing --

8 A That's right.

9 Q -- and that was deleted from the study,
10 is that correct?

11 A That's right.

12 Q So the influence of increased property
13 values on that upper end of the higher properties
14 was not included in the Blomquist study, is that
15 correct?

16 A That's correct.

17 Q Were you aware also that the Blomquist
18 study omitted blocks that had less than three-
19 quarters single family residences?

20 A Yes.

21 Q So anything related to multifamily would
22 have been omitted from the Blomquist study, is
23 that correct?

24 A Right, and I was aware of why he did
25 that.

1 Q Okay, thank you. I want to ask this
2 question carefully because it's a sensitive
3 subject and I want to make sure you understand
4 where I'm coming from.

5 I'm not stating that you share this
6 view. But were you aware that the 1974 study
7 assumed that African-American residents caused a
8 decrease in property values?

9 A To my recollection that was not stated
10 in the Blomquist study.

11 Q Okay, again I'm not saying you share
12 that, but as I want to go through this study, the
13 underpinnings of it, and let me read to you from
14 the study --

15 PRESIDING MEMBER LAURIE: Well, wait a
16 minute, Mr. Harris. Is it your position that the
17 Blomquist study so states?

18 MR. HARRIS: Yes, it is. I've got it in
19 front of me. I was going to read it to him and
20 ask him whether that would change his opinion.

21 PRESIDING MEMBER LAURIE: Okay, and you
22 believe that that's relevant?

23 MR. HARRIS: I do believe it's relevant.

24 PRESIDING MEMBER LAURIE: Okay.

25 //

1 BY MR. HARRIS:

2 Q Reading from the Blomquist study, I'm on
3 page 98, and I'll let you see this. I've only got
4 one copy, I'm sorry.

5 It says that: One of the factors
6 affecting value is that blacks in white suburbs
7 break up social homogeneity (homogeneity is
8 valuable to many whites)."

9 Would you be surprised if that statement
10 is in that Blomberg --

11 A Well, yeah, I misunderstood what -- he
12 included that variable because he wanted to
13 include all the variables that affected the price
14 of the property. He didn't assume that that was
15 the case, that was -- if that came out, that was a
16 result of the study, not his assumption.

17 Q So the study, though, does reflect an
18 assumption or maybe -- you're saying a reality
19 that blacks in white suburbs break up the social
20 homogeneity and that homogeneity is valuable to
21 whites?

22 A No. That was the purpose of the study
23 was to see whether a variable of that sort would
24 affect the price. And what he wanted to do is
25 include all possible things that could affect the

1 price so that he could then separate the influence
2 of the proximity to the power plant.

3 Q And in doing that he created a formula,
4 is that correct?

5 A That's right.

6 Q And in that formula there also is a
7 coefficient. Let me read from the study again:
8 The negative coefficient of BLK appears to
9 indicate a preference for whites to live next to
10 whites, and that the presence of blacks decreases
11 amenity."

12 Now, would you be surprised to find that
13 statement in the Blomquist study?

14 A Well, you know, I'm not so much
15 surprised. It's, you know, he got a result and he
16 had to interpret it. But his interpretation is
17 not the only interpretation.

18 But the fact that he got a negative
19 coefficient there was not his assumption, that was
20 a result of the statistical analysis.

21 Q So this 1974 study -- is this an
22 assumption that you or any other reputable
23 professional would use in your analysis today?

24 A It's quite often they use all the
25 socioeconomic variables that are available, and

1 the percent of an area that's black would be
2 included in the analysis. And so it's very common
3 to just use all the variables that they can find.
4 If some variable doesn't influence the result,
5 then the coefficient comes out not statistically
6 different from zero.

7 Q Okay, but you said earlier that it
8 wasn't an assumption of that study?

9 A That's right.

10 Q But that number does appear --

11 A You could --

12 Q -- in the numerical equation that he
13 used --

14 A Right.

15 Q -- to determine values, is that correct?

16 A Right, but if he uses all the variables
17 he can, and if the --

18 Q So, including --

19 A -- coefficient could come out positive.

20 Q I'm sorry, I was letting your answer,
21 not to interrupt. Go ahead and finish.

22 A Well, just that he used that variable,
23 the coefficient could have come out positive
24 instead of negative.

25 Q Okay, you said he used several different

1 variables?

2 A As many as he could get.

3 Q So he obviously in doing that included
4 some and eliminated others, is that correct?

5 A Well, I don't know that he eliminated
6 them. It was a matter of they're not, perhaps not
7 being available, other ones that he'd like to
8 have.

9 Q But his --

10 A But usually --

11 Q -- his statistical analysis includes a
12 set of variables, is that correct?

13 A That's right.

14 Q And one of those variables is the effect
15 of African-American populations, and that effect
16 on property values, is that correct?

17 A But he's going to use everything he can
18 get. And that was available from the census.

19 Q Let me ask the question again. Among
20 the variables he selected, was one of those
21 variables the affect of African-Americans on
22 property values?

23 A Yeah, --

24 (Parties speaking simultaneously.)

25 MR. HARRIS: No, I'd like him to answer

1 the question. He --

2 PRESIDING MEMBER LAURIE: That's
3 correct. You're not being responsive. This
4 question can be answered yes or no. Repeat the
5 question. Answer the question yes or no.

6 BY MR. HARRIS:

7 Q Is one of the variables selected in his
8 analysis of property values, one of those
9 variables was whether African-Americans were
10 present in the community? And the assumption in
11 that variable was that might have a negative
12 impact on property --

13 A Oh, it's not an assumption --

14 Q -- is that correct?

15 A -- that's negative. It could just as
16 well be a positive one. It wasn't a matter of
17 selecting it. He took anything he could get.

18 PRESIDING MEMBER LAURIE: Again, sir,
19 you're not being responsive. The question was did
20 the Blomquist study use that as a variable.

21 DR. WATKINS: He used it as a variable.
22 But it wasn't --

23 PRESIDING MEMBER LAURIE: Okay, that's
24 the --

25 DR. WATKINS: -- that it was negative --

1 PRESIDING MEMBER LAURIE: -- that's the
2 only question. Now, Mr. Harris, my interest is
3 whether or not this witness agrees with that. If
4 he doesn't agree with that, does that claim change
5 his conclusions.

6 MR. HARRIS: Right, and that, I guess,
7 is my penultimate question, and the reason I
8 believe it's relevant.

9 BY MR. HARRIS:

10 Q Is this sort of assumption the kind of
11 assumption you would expect in a current study as
12 opposed to a 1974 study?

13 A I haven't done any survey of it, but
14 it's very common for the statisticians to use
15 every variable they can find.

16 You know, you say that there's a
17 selection. It's a matter of whether something was
18 available. And then the other thing is you're
19 presuming that he thought that it would be
20 negative. It could just as well have been
21 positive.

22 Q Let me ask the question again, and it's
23 a yes-or-no question. One last time.

24 Was one of the variables in the
25 Blomquist study --

1 PRESIDING MEMBER LAURIE: Mr. Harris, he
2 answered yes.

3 MR. HARRIS: Did he answer yes?

4 PRESIDING MEMBER LAURIE: Yes.

5 MR. HARRIS: Okay, I'm sorry. Let me
6 move on to another study that's cited in the
7 materials from Mr. Troy, Austin Troy.

8 BY MR. HARRIS:

9 Q They cite the Flowers and I think it's
10 pronounced Ragas, R-a-g-a-s study. Are you
11 familiar with that study, either of the witnesses?

12 DR. WIKTOROWICZ: I don't recognize the
13 name. Maybe I'm pronouncing it differently.

14 MR. HARRIS: Flowers is the first name.
15 Flowers and I guess it's pronounced Ragas.

16 DR. WIKTOROWICZ: Is this in the
17 literature review?

18 MR. HARRIS: It is actually, I think, in
19 the text.

20 DR. WIKTOROWICZ: Would you point us to
21 the page?

22 MR. HARRIS: Page 5 of Austin Troy's
23 testimony.

24 DR. WIKTOROWICZ: Okay.

25 MR. HARRIS: I guess it's the second

1 paragraph under similar localized dis-amenities.

2 DR. WIKTOROWICZ: Okay, yes.

3 DR. WATKINS: Okay.

4 MR. HARRIS: Are you familiar with that
5 study?

6 DR. WATKINS: That one I'm not familiar
7 with. I did read the Austin Troy's writeup, but I
8 didn't follow up and read that particular one.

9 MR. HARRIS: So you're familiar with Mr.
10 Troy's analysis of the study?

11 DR. WATKINS: Yeah.

12 MR. HARRIS: Are you familiar with the
13 findings that Flowers and Ragas made that the
14 closer you were to the oil refinery the higher the
15 property values?

16 DR. WATKINS: That, you know, is where
17 you sometimes have flawed studies. And it's
18 particularly if you don't have enough different
19 variables in it, then you get counterintuitive
20 results of that sort.

21 DR. WIKTOROWICZ: Can I also answer the
22 question? There's several studies that show,
23 nuclear power plants included, that if the bulk of
24 the workforce constitutes a significant portion of
25 the population, then there actually is a positive

1 benefit to living closer, because the bulk of the
2 population works there.

3 So it's a proximity analysis. And I
4 would ask you the question, is that an issue in
5 this particular paper that you cited here?

6 PRESIDING MEMBER LAURIE: Don't answer
7 that.

8 (Laughter.)

9 MR. HARRIS: But you would agree that
10 those results are counterintuitive?

11 DR. WATKINS: Yes.

12 MR. HARRIS: Okay, thank you. In your
13 analysis of property values, did you take into
14 account the fact that there are no homes within a
15 half a mile to the north, the east, and the west
16 of the Metcalf site?

17 DR. WATKINS: Well, you know, I reviewed
18 John Wiktorowicz's work for methodology. He
19 actually carried out the analysis. And he did
20 take into account there weren't the homes within,
21 you know, because, you know, he based it upon the
22 information from the census. And so he did take
23 that into account.

24 MR. HARRIS: Can you confirm that?

25 DR. WIKTOROWICZ: Yes, that's true.

1 That's true.

2 MR. HARRIS: You did take that into
3 consideration?

4 DR. WIKTOROWICZ: Yeah. All the data in
5 the table is tabulated from the 1990 census data.

6 MR. HARRIS: Just two more questions.
7 Did you take a look at any natural gas fired power
8 plants in your analysis?

9 DR. WATKINS: No, there's not the
10 statistical studies of that sort that are
11 available. The studies that are multivariant
12 statistical analysis. This is the thing that
13 everybody would love to have, but they're just not
14 available.

15 MR. HARRIS: And that's why you relied
16 on the 1974 --

17 DR. WATKINS: Yeah, --

18 MR. HARRIS: -- Blomquist study?

19 DR. WATKINS: -- that's why I say it's
20 the best we have, --

21 MR. HARRIS: Okay, thank you.

22 DR. WATKINS: -- so we have to go with
23 it.

24 MR. HARRIS: Thank you. Did you take a
25 look at any of the real estate values within the

1 greater San Jose area in your analysis?

2 DR. WATKINS: John, --

3 DR. WIKTOROWICZ: Are you asking me?

4 MR. HARRIS: Yes, or whoever is
5 appropriate to answer.

6 DR. WIKTOROWICZ: Would you repeat the
7 question again, I'm sorry, I was writing some
8 notes.

9 MR. HARRIS: Did you take a look at real
10 estate values in the San Jose area as part of your
11 analysis?

12 DR. WIKTOROWICZ: No, I'm not a realtor,
13 and I don't believe that I would be able to
14 support any conclusions based on an empirical
15 analysis of the data. My only expertise is in the
16 analytical portion of the data, and therefore I
17 limited my calculations to analytical application
18 of the academic literature.

19 MR. HARRIS: So you limited then, your
20 analysis to application of the Blomquist study, is
21 that correct?

22 DR. WIKTOROWICZ: The Blomquist and
23 others.

24 MR. HARRIS: Okay, but primarily the
25 Blomquist for Dr. --

1 DR. WIKTOROWICZ: Yes.

2 MR. HARRIS: -- for Dr. Watkins' --

3 DR. WIKTOROWICZ: Yes.

4 MR. HARRIS: I don't have anything
5 further.

6 CHAIRMAN KEESE: Mr. Valkosky, I have a
7 question. Unfortunately I'm going to have to
8 leave, I have a dawn flight back east, so I'll be
9 leaving momentarily.

10 EXAMINATION

11 BY CHAIRMAN KEESE:

12 Q Professor Watkins, you were indicating
13 that residential property changes hands much more
14 frequently than commercial property. Is that --

15 DR. WATKINS: Well, not so much as
16 commercial property, I was really thinking of
17 corporations.

18 CHAIRMAN KEESE: Corporate property.

19 DR. WATKINS: Yeah.

20 CHAIRMAN KEESE: Is that a --

21 DR. WATKINS: Because the corporate --

22 CHAIRMAN KEESE: Is that a documented,
23 it was my understanding with corporate mergers and
24 everything else, that corporate property changed
25 hands much more frequently --

1 DR. WATKINS: Well, with mergers I'm not
2 sure --

3 CHAIRMAN KEESE: -- than residential.

4 DR. WATKINS: -- that they change the
5 title, and consequently there wouldn't be the need
6 to revert to revalue it to market value.

7 But I was particularly thinking of a
8 public --

9 CHAIRMAN KEESE: But that is -- I mean
10 that is factual? This is not --

11 DR. WATKINS: No, it's based upon a
12 corporation having an indefinite life, whereas
13 human beings have a finite life.

14 CHAIRMAN KEESE: Is this an assumption,
15 or is this a fact?

16 DR. WATKINS: Well, it's a fact that the
17 corporations are legally immortal, whereas human
18 beings are mortal. But it's not an empirical
19 investigation of how often a corporate property
20 changes values -- I mean changes title.

21 CHAIRMAN KEESE: So you've made an
22 assumption?

23 DR. WATKINS: That's right.

24 CHAIRMAN KEESE: Thank you.

25 HEARING OFFICER VALKOSKY: Ms. Willis.

1 MS. WILLIS: Staff has no questions.

2 HEARING OFFICER VALKOSKY: Ms. Cord.

3 MS. CORD: I have no questions.

4 HEARING OFFICER VALKOSKY: Mr. Scholz.

5 MR. SCHOLZ: No questions.

6 HEARING OFFICER VALKOSKY: Mr. Ajlouny.

7 MR. AJLOUNY: Yeah, I just have a couple
8 questions.

9 CROSS-EXAMINATION

10 BY MR. AJLOUNY:

11 Q You've noticed or witnessed the
12 testimony of staff's not taking consideration, and
13 now I forget the name of the report, of the coal
14 versus the natural gas, and also not taking
15 consideration the planning department document
16 that came out and talked about socioeconomical
17 impacts on the Coyote Valley area of maybe
18 corporations not building there if the power plant
19 was there.

20 In your expert testimony would you
21 consider the staff assessment inadequate by not
22 taking those two documents in consideration?

23 DR. WATKINS: Well, I don't know what
24 the laws are concerning the staff and so forth.
25 But I might make this remark that if you say

1 there's no impact, they're saying zero as opposed
2 to using the evidence from the coal fired plant.
3 I think you're more accurate using the coal fired
4 plant than using a zero.

5 MR. AJLOUNY: Okay. I guess I was
6 getting to the point of your expert testimony of
7 all the research you've done. If --

8 PRESIDING MEMBER LAURIE: You don't have
9 to explain. You've --

10 MR. AJLOUNY: But he didn't answer my
11 question.

12 PRESIDING MEMBER LAURIE: Well, you've
13 asked the question. That was his answer.

14 MR. AJLOUNY: So I guess when he doesn't
15 answer my question it's okay, but when he doesn't
16 have -- thank you very much.

17 PRESIDING MEMBER LAURIE: Well, okay,
18 that's --

19 MR. AJLOUNY: I just --

20 PRESIDING MEMBER LAURIE: No, no, that's
21 fine. If you think you can ask your question
22 better, ask it.

23 MR. AJLOUNY: Could the staff --

24 PRESIDING MEMBER LAURIE: No. Strike
25 that. I'll ask it.

1 MR. AJLOUNY: Okay.

2 PRESIDING MEMBER LAURIE: You heard the
3 question, the question is do you think staff's
4 analysis is deficient?

5 DR. WATKINS: Yes. I think that
6 treating the effect as zero is inadequate.

7 PRESIDING MEMBER LAURIE: That's the
8 answer to your question.

9 HEARING OFFICER VALKOSKY: Mr. Williams.

10 MR. WILLIAMS: Thank you. You nailed
11 the point I was aiming for. Thank you.

12 PRESIDING MEMBER LAURIE: Well, that's
13 why they used to pay me big bucks.

14 (Laughter.)

15 HEARING OFFICER VALKOSKY: City?

16 MR. BUIKEMA: We have no comments.

17 HEARING OFFICER VALKOSKY: Okay, are
18 there any other points you'd like to clarify?
19 Basically what I'm saying is this is your chance
20 for redirect, but we don't have to do it --

21 DR. WIKTOROWICZ: Yes, I do have a few.

22 HEARING OFFICER VALKOSKY: Okay.

23 DR. WIKTOROWICZ: Just a limited number
24 of redirect.

25 //

1 REDIRECT EXAMINATION

2 BY DR. WIKTOROWICZ:

3 Q Professor Watkins, would you consider
4 your analysis that we submitted into the evidence
5 based on empirical evidence or an academic
6 analysis?

7 A It's empirical evidence, but I was
8 emphasizing that there's certain principles that
9 you have to take into account, mainly that the
10 impact of something is the difference between what
11 the price would be without the facility and what
12 it would be with the facility.

13 That means that you don't necessarily
14 have the price going down. It just doesn't go up
15 as much as it would have without the facility.

16 So you don't have to have the prices
17 falling to have an adverse effect. That was a
18 point of confusion in the literature.

19 Also that the impact is what the
20 benefits, let's say, of the siting at Metcalf
21 would be compared to what it would be with an
22 alternative facility. Rather than saying the
23 benefits of having the power plant at Metcalf
24 versus not having any power plant at all.

25 Q In light of the academic nature of the

1 analysis, do you feel yourself competent to review
2 all of the academic --

3 A I don't have the time to do it.

4 Q But do you feel yourself competent to
5 review --

6 A Yes. Yes.

7 Q Ignoring relevant variables in a hedonic
8 analysis or multi-regression analysis would limit
9 the effectiveness of that analysis, wouldn't you
10 agree?

11 A State it again?

12 Q Ignoring relevant variables would limit
13 the effectiveness of an analysis?

14 A It would. But what it means then is
15 that that shows up as the unexplained term, the
16 random term in the equation.

17 Q So isn't it fair to say that in an
18 economic analysis such as this, the more variables
19 that are considered in the regression, the more
20 accurate the model can be stated to be?

21 A You want to explain as much as you can
22 in order to separate the effect of, in this case,
23 the proximity to the power plant from all the
24 other effects.

25 Q And that would include issues such as

1 the ethic composition of the area?

2 A Yes. You just simply use every variable
3 that you can get your hands on.

4 Q Had Professor Blomquist avoided that
5 particular or any other variable, would that have
6 placed his submission, his paper, in jeopardy
7 during the peer review process, and therefore
8 possibly not even get published?

9 A I don't know that it would. The crucial
10 thing is the T ratio for the coefficient for the
11 land, the effect of distance to the power plant.
12 And a T ratio of 2 is generally considered
13 statistically significant.

14 He got a T ratio of 5, which meant that
15 it was extremely significant that power plant did
16 have an effect on property values.

17 Q Are you familiar with the general trend
18 of the socioeconomic issues addressed in the FSA
19 in which the ethnic makeup of the community
20 addressed or impacted by the power plant is
21 quantified?

22 A That's not something that I gave a great
23 deal of attention to.

24 Q Let me just point you out to
25 socioeconomic table 1; the footnote quantifies

1 all the difference races that are considered in
2 this analysis, including Hispanics. Blacks,
3 American Indians, Asian Pacific Islanders.

4 Would this not be a deficient analysis
5 if it didn't include the racial makeup?

6 A It's important to include that. But
7 that was not something that I focused on.

8 Q Thank you.

9 HEARING OFFICER VALKOSKY: Mr. Harris,
10 recross?

11 MR. HARRIS: No further questions, thank
12 you.

13 HEARING OFFICER VALKOSKY: Ms. Willis.

14 MS. WILLIS: No questions.

15 HEARING OFFICER VALKOSKY: Ms. Cord.

16 MS. CORD: No.

17 HEARING OFFICER VALKOSKY: Mr. Scholz.

18 MR. SCHOLZ: No questions.

19 HEARING OFFICER VALKOSKY: Mr. Ajlouny.

20 MR. AJLOUNY: No.

21 HEARING OFFICER VALKOSKY: Mr. Williams.

22 MR. WILLIAMS: No.

23 HEARING OFFICER VALKOSKY: City of San

24 Jose.

25 MR. BUIKEMA: No.

1 HEARING OFFICER VALKOSKY: Anything else
2 for this witness?

3 MR. HARRIS: One issue I wanted to raise
4 while the witness is still here. We would like to
5 submit a copy of the Blomberg -- Blomquist --
6 Blomberg is the stock market, I'm sorry -- the
7 Blomquist report as an exhibit.

8 I don't have a clean copy, but since
9 there was so much discussion about it, I'd like to
10 actually move that into evidence and provide you
11 with that, and the rest of the --

12 HEARING OFFICER VALKOSKY: Okay, is
13 there objection to receiving that report into
14 evidence?

15 DR. WIKTOROWICZ: This is the paper by
16 Glen Blomquist?

17 MR. HARRIS: The 1974 study, yes.

18 HEARING OFFICER VALKOSKY: This is the
19 Blomquist paper that we've all been talking about.
20 Okay. First, we'll identify it as exhibit number
21 83.

22 Again, I don't have a clean copy of it,
23 either, so I certainly would trust that someone
24 will provide me with a copy of it.

25 DR. WIKTOROWICZ: I believe I actually,

1 a long time ago, first gave this to staff. Made a
2 copy and gave it to staff. I don't know whether
3 it was docketed or not.

4 HEARING OFFICER VALKOSKY: Okay, does
5 staff have a copy of it available?

6 MR. ADAMS: I'm trying to recall. I got
7 some studies and it might have been yours, and I
8 gave it to Austin. But, I don't know if I still
9 have it.

10 HEARING OFFICER VALKOSKY: Okay. All I
11 want to know is who's got a clean copy so I can
12 make sure I'm getting the right report.

13 MR. HARRIS: We'll provide it.

14 HEARING OFFICER VALKOSKY: Okay.

15 MR. HARRIS: We'll provide it since
16 we're asking to move it in --

17 HEARING OFFICER VALKOSKY: Okay, subject
18 to that, exhibit 83 will be the 1974 Blomquist
19 report. Is there any objection to receiving that?

20 There is none. That will be admitted
21 into the evidence.

22 While we're on exhibits and before we
23 excuse the parties, Mr. Harris, you had an
24 objection, contingent objection to the admission
25 of exhibit 73?

1 MR. HARRIS: I withdraw that, and I
2 would accept the --

3 HEARING OFFICER VALKOSKY: Okay, exhibit
4 73, the testimony submitted on behalf of Rancho
5 Santa Teresa, will be received into evidence.

6 Okay, is there anything else for this
7 witness -- for this witness?

8 MR. AJLOUNY: I just want to comment
9 that he wasn't sworn in, the staff's witness, just
10 for the record.

11 MR. ADAMS: Yes, I was.

12 MS. WILLIS: Yes, he was.

13 HEARING OFFICER VALKOSKY: Yes, he was.

14 MR. AJLOUNY: He was? Oh, I'm sorry. I
15 apologize.

16 HEARING OFFICER VALKOSKY: Yes, he was
17 sworn in.

18 Okay. The Committee thanks and excuses
19 the witness, thank you, sir.

20 Well, we have public comment. I'm aware
21 of two individuals who have been patient enough to
22 wait for their chance to comment.

23 Mr. Kraemer, if you could go up -- or
24 just get a microphone, sir, so we can hear you.
25 There's one available up there.

1 MR. KRAEMER: Hello. I'm Oliver
2 Kraemer, K-r-a-e-m-e-r. And I was born in August
3 of 1939. Will there be any swearing in, or should
4 I go directly into my comments?

5 HEARING OFFICER VALKOSKY: No, this is
6 just comments, sir. You need not be sworn.

7 MR. KRAEMER: Thank you. In 1980 my ex
8 and I bought some undivided interest into what is
9 now the site of the power plant. Our interest was
10 12.112 percent of the total property, which
11 consisted of 126 acre parcel, and another parcel
12 to the north of approximately 38 acres.

13 Of course, if we only had that
14 percentage there were a number of other owners,
15 including -- and those owners changed. In 1993,
16 an unconfirmed report that there were hazards on
17 the property of people hunting and riding
18 motorcycles. And also of trespassers, there was
19 one, a temporary one.

20 We formed a subchapter S corporation
21 with one exception, and that was Mr. Pond did not
22 come into the corporation. Later apparently
23 another owner came out of the corporation, a Mr.
24 Nyestrom, who was also then a vested owner.

25 I later learned that in 1993 an action

1 was started by Christie Palosi, a local attorney
2 firm, in order to take and restrict the full
3 rights of Mr. Pond.

4 One of the things that we look to when
5 setting up the corporation is that certain
6 guidelines be followed according to the bylaws of
7 that corporation to protect our interests. And
8 also we felt that Mr. Pond would also act as a
9 foot in the door, since he could control his
10 signature, and not let the property go for less
11 than its value.

12 January 4, 1998, I suffered a massive
13 intracerebral hemorrhage. I am gradually getting
14 more and more capabilities. I am articulate,
15 however I have lost much use of the written
16 language, including being able to take and
17 conceive information from notes, and to put things
18 down in notes, or to find anything I've ever
19 written down or handled. Or locating and
20 sequencing documents for preparation and
21 presentation.

22 In 1998 the case against Mr. Pond was
23 restarted. I believe that was by -- at the time
24 that was restarted that would have been by the
25 firm of Miller, Starr, Regalia, who I later

1 learned was being paid for by Calpine.

2 I had heard that it was \$5000 a month,
3 that there was a retainer for them to handle this
4 action against Mr. Pond, which that firm, a
5 representative of that firm, Robin Kennedy, said
6 that the case was not being handled very well.

7 On later examination of the court file,
8 Santa Clara County Superior Court, I saw that
9 there was information presented that was in error.
10 Some of that information was that on two different
11 counts that the court would assume jurisdiction in
12 this matter.

13 One was that Mr. Pond was totally
14 unreasonable. I know that Mr. Pond had been
15 saying for a long time that it was the perfect
16 place for a power plant.

17 Also, it stated that the other owners
18 were quite advanced in age. I was listed, in
19 1993, when that was filed, as 70 years old. I am
20 61 now with a birthdate in 1939. That information
21 was wrong.

22 I was relying upon Mr. Pond to look out
23 for the value of the property. And also the firm
24 of Miller, Starr, Regalia, which represented to me
25 that they were the attorney for the corporation

1 and would look out for the interests of the
2 corporation, Tulare Hill Corporation, the sole
3 assets of that corporation being the property of
4 Tulare Hill which is the site of the proposed
5 plant, and the 38 acres to the north.

6 I appeared in court when Mr. Pond was
7 appearing in his behalf, stating that the attorney
8 firm was not sufficiently protecting my interests.
9 There was a court procedure which extended the
10 authority of the court in both time and scope.
11 The scope being that originally it was not
12 mentioned that Mr. Pond's mother would also be
13 under the jurisdiction of the court, as far as a
14 referee signing for her. And the time was to take
15 and extend an option agreement that was entered
16 into about the same time I had my stroke.

17 The Judge Donald Chapman was the referee
18 in that matter. And the next day after the
19 extension was given I had telephone contact with
20 him, and told me he had already signed it and sent
21 it off.

22 He could not have had the transcript
23 from the court, because it was not prepared for
24 another week and a half. His decision was based
25 upon something other than the details of what

1 happened in that court, since recorders are not
2 allowed, other than the official transcript.

3 That extension of the original option
4 had contained no compensation for that extension
5 whatsoever. Certainly there could have been a
6 cash compensation or access rights to the adjacent
7 piece of property to the north, that 38 acres.

8 The title company that was required to
9 be used, according to the past president of the
10 former Tulare Hill Corporation, -- I said we
11 formed a corporation in 1993. I finally got some
12 minutes of that corporation and there is no
13 notation of the required yearly elections being
14 done since 1993. In fact, there was a regular
15 yearly meeting, and the minutes of that meeting
16 show that there were no required election
17 procedures. So there were no election of
18 officers.

19 Also, there was a requirement that
20 notice be given ten days before a meeting. There
21 was no notice of that meeting, even though after I
22 recovered a little bit after my stroke, I had
23 contacted Dr. Johns and asked him, the past
24 president of the corporation in 1993, and asked
25 that I be involved in anything that was done.

1 I later learned from him that there was
2 a telephone meeting in which an authorization was
3 given by the board of directors to take and extend
4 the option agreement.

5 PRESIDING MEMBER LAURIE: Mr. Kraemer,
6 let me ask you to summarize your comments so we
7 can give other folks a chance to speak tonight,
8 as --

9 MR. KRAEMER: All right.

10 PRESIDING MEMBER LAURIE: -- well,
11 please.

12 MR. KRAEMER: The assertion that was
13 given was that the site control had been obtained.
14 That site control was obtained by the past
15 president of a corporation that had not met its
16 legal requirements since 1993. And did not offer
17 a right of first refusal to the other owners of
18 that property.

19 The filing of that with the County was
20 by First American Title Company. First American
21 Title, I discovered, in May of last year,
22 transferred that second piece of property to
23 Calpine Corporation unbeknownst to certainly me,
24 and as far as I know, to anybody else, using the
25 signature of the vested owner Mr. Nyestrom, and of

1 Donald Chapman, who had no authority given through
2 the court to him at all for transferring that
3 property. And let's see, Dr. Johns, Mr. Nyestrom,
4 and the referee judge.

5 I discovered that happened in May of
6 this last year. And in August it was transferred
7 back again by the First American Title --

8 PRESIDING MEMBER LAURIE: Okay, so my
9 understanding is that your statement is that you
10 disagree that Calpine has ownership rights to this
11 piece of property, is --

12 MR. KRAEMER: I think it is in question.
13 And the articles presented to the court after I
14 appeared and spoke in behalf of Mr. Pond, there
15 was generated an affidavit attacking me. And that
16 affidavit stated that -- filed by the firm of
17 Miller, Starr, Regalia and Dr. John Johns, that
18 made certain allegations that I had falsely said
19 we could get more for the property than we got for
20 it.

21 At the time that they made that they
22 already had seen, at the prior meeting, the
23 minutes I presented to the court showed that there
24 were two higher, significantly higher offers
25 given. So that statement was given under penalty

1 of perjury and it was a perjured statement as far
2 as I could understand.

3 He also -- Dr. Johns stated he was the
4 duly elected president of the corporation. I too
5 disproved that by including the evidence.

6 PRESIDING MEMBER LAURIE: Okay, sir,
7 well, we cannot go back and litigate that case.

8 MR. KRAEMER: Yes.

9 PRESIDING MEMBER LAURIE: I think it
10 is --

11 MR. KRAEMER: All right.

12 PRESIDING MEMBER LAURIE: -- important,
13 it's important that you share with us your
14 conclusion that you disagree regarding ownership.

15 MR. KRAEMER: Yes, and if there is fraud
16 on the court my understanding is there is no
17 statute of limitations on fraud on the court.

18 So I could reopen this case --

19 PRESIDING MEMBER LAURIE: Okay, sir,
20 well, we --

21 MR. KRAEMER: -- anytime. And so I
22 don't see how they can claim that they have site
23 control.

24 PRESIDING MEMBER LAURIE: Okay. Your
25 comments are received, and we thank you very much.

1 MR. KRAEMER: Thank you very much.

2 PRESIDING MEMBER LAURIE: Yes, sir.

3 MR. KRAEMER: May I turn in the paper,
4 please?

5 HEARING OFFICER VALKOSKY: Well, what's
6 the nature of the paper?

7 MR. AJLOUNY: It says declaration of
8 Oliver Kraemer.

9 HEARING OFFICER VALKOSKY: Okay, I'll
10 make sure that's docketed if you'll provide it to
11 me, please.

12 MR. KRAEMER: Thank you.

13 (Pause.)

14 HEARING OFFICER VALKOSKY: I'll note for
15 the record that I will, hopefully by the end of
16 this week, docket a document entitled, declaration
17 of Oliver Kraemer, signed by Mr. Kraemer, and
18 dated January 30, 2001.

19 Thank you, sir.

20 Are there any other individuals who wish
21 to offer public comment? Sir, if you'd step up to
22 the mike, introduce yourself for the record, and
23 spell your last name, please.

24 MR. CALLENDER: Good evening,
25 Commissioner Laurie. My name is Rick Callendar.

1 It's spelled C-a-l-l-e-n-d-e-r. And I'm the
2 President of the San Jose/Silicon Valley Branch of
3 the NAACP.

4 And as you should know, the NAACP is the
5 nation's oldest and strongest civil rights
6 organization, civil and social rights organization
7 of the United States. And we've been in Silicon
8 Valley for over 49 years and happy to be
9 celebrating our 50th anniversary this time next
10 year.

11 One of the things, this wasn't going to
12 be part of my testimony, but as I sat here in the
13 audience and had the opportunity to listen, that
14 the Blomquist study was used as part of the
15 rationale for opposing the Metcalf Energy Center,
16 what it did is definitely demonstrated to me why
17 the NAACP surely should have some input in this
18 process.

19 One of the things the NAACP does is look
20 at public policy processes which have gone awry
21 with bad rationale. I think the Blomquist study
22 is nothing more than a study in redlining that the
23 insurance companies have probably used in the past
24 for not insuring neighborhoods. So I think the
25 Blomquist study should not be something that

1 should even be taken into account in consideration
2 with the Metcalf Energy Center. I'm sad to hear
3 that it was, in fact, used for a part of the
4 rationale for the opposition.

5 Part of the reason why the NAACP has
6 unanimously, and by Board of Directors did
7 unanimously support the Metcalf Energy Center
8 proposal was varied reasons. And you should have
9 hopefully by now received the letter that came
10 from our branch to the CEC, as well as was sent to
11 the Governor.

12 But we see this as a strong issue of
13 social justice. When we met with members of the
14 CEC, it must have been a year ago now, one of the
15 things that we wanted to see was what the impacts
16 of the Metcalf Energy Center would have been on
17 the local communities, local communities of color,
18 local communities of lower socioeconomic means,
19 communities that didn't have the ability and means
20 to speak for themselves.

21 And we were very satisfied with what we
22 were told. And so we said, well, what we'll do is
23 we'll watch this and see how this progresses, and
24 where this goes from here.

25 At this point we felt that it was

1 imperative that we definitely spoke up, because
2 this is something that we couldn't sit on the
3 sidelines and watch any more because of these
4 strong issues of social justice.

5 Now, one of the things, we saw it's a
6 simple issue of supply and demand. The people
7 that are on the lower socioeconomic rungs of the
8 ladder will not be able to afford a lack of
9 supply. They'll be the ones with their
10 refrigerators turned off. They'll be the ones not
11 being able to afford to replace the food in their
12 refrigerators and their freezers once it's
13 spoiled.

14 It's not going to be people like myself
15 and people that are around the table.
16 Unfortunately, it would be an impact to me and my
17 family, but it wouldn't put me in a position of
18 where I would not be able to eat or feed my
19 children for many portion of the week, and have to
20 worry about what I'm going to do about food for
21 the remaining portion of the week.

22 Now, every community needs a share in
23 the share of the community infrastructure. I
24 think Coyote Valley needs a share in the share of
25 the community infrastructure. And I'm sure that

1 people in Alviso would be very glad to trade the
2 Metcalf Energy Center with one of the dumps that
3 they have out there, and send one of the dumps out
4 to the Coyote Valley.

5 I think the people in Alviso have more
6 than their share of community infrastructure, as
7 well as other areas of the community. One of the
8 things about Alviso is Alviso is an area that's
9 predominately people in the lower ends of the
10 socioeconomic rungs of the ladder, as well as
11 predominately people of color. Like I said, they
12 would be probably more than pleased to trade one
13 of the two dumps that's been located out in the
14 community for a facility such as the Metcalf
15 Energy Center.

16 But one of the things that the NAACP
17 would like to see is the Coyote Valley share in
18 the share of the community infrastructure, because
19 this benefits us all to have an energy center in
20 our community.

21 Now, one of the things that we're also
22 pleased is that we do have a strong environmental
23 justice initiative of the NAACP and it's made of
24 predominately environmentalists from the local
25 community.

1 The NAACP in Silicon Valley isn't
2 predominately African-Americans. It's made up of
3 people of Latino, Asian, Sikh descent. We have a
4 strong representation of the community that's on
5 the board, as well as a strong representation of
6 environmentalists.

7 The environmentalists and probably one
8 of the more conservative environmentalists who
9 sits on my committee was very pleased to be able
10 to second the motion for the support of the
11 Metcalf Energy Center, primarily because he felt
12 that there was 100 percent mitigation for its
13 impacts to the community. That's something that
14 we can definitely support here.

15 Now, one of the things I talked about is
16 what happens if we continue to experience outages
17 in the community. As the outages continue to hit
18 us in Silicon Valley, like I've already pointed
19 out, it's not going to be people like myself that
20 can't afford to replace the food. It's going to
21 be the people that cannot afford to replace the
22 food. These people are going to be severely
23 impacted. And we, as a community, owe it to
24 continually provide for people that cannot provide
25 for themselves in this aspect. And I think we

1 can do that by supporting the Metcalf Energy
2 Center.

3 Now, actually the last point that I'd
4 like to make is that we do, we very strongly
5 support the Metcalf Energy Center proposal. And
6 the NAACP, we don't see this about supporting a
7 private company. We see this about supporting a
8 public good.

9 Thank you.

10 PRESIDING MEMBER LAURIE: Thank you,
11 sir.

12 HEARING OFFICER VALKOSKY: Thank you for
13 your comments, sir. Is there any other public
14 comment on the topic area of socioeconomics? Just
15 a minute, Mr. Kraemer. You've spoken already.

16 MR. KRAEMER: However, seeing I was not
17 able to read notes, --

18 HEARING OFFICER VALKOSKY: Say nothing
19 else --

20 MR. KRAEMER: -- there was a couple of
21 issues I missed. Very briefly.

22 HEARING OFFICER VALKOSKY: Okay, very
23 briefly.

24 MR. KRAEMER: All right, one of the
25 requirements if a real estate broker is acting as

1 a dual broker, representing both the buyer and the
2 seller, which was the case in this case, a letter
3 is required to be sent by law. There was no
4 letter sent to me, to anybody I could find, nor
5 was it in the case file where Judge Chapman would
6 have made his decisions from.

7 Also, there was an appraisal submitted
8 by Noel Atkinson, who was never licensed to
9 appraise in the State of California, which has
10 been required since 1991.

11 That's it, thank you.

12 HEARING OFFICER VALKOSKY: Okay.

13 PRESIDING MEMBER LAURIE: Mr. Buikema,
14 will you not leave yet, please?

15 HEARING OFFICER VALKOSKY: Okay, with
16 that, and seeing there are no further comments on
17 the topic of socioeconomics, we'll close the
18 record on that.

19 We'll reconvene tomorrow here at 2:00
20 p.m. I would like to advise the parties that
21 we're going to have a little off-the-record
22 discussion. With that, we're adjourned.

23 (Whereupon, at 9:40 p.m., the hearing was

24 adjourned, to reconvene at 2:00 p.m.,

25 Wednesday, January 31, 2001, at this same location.)

CERTIFICATE OF REPORTER

I, JAMES RAMOS, an Electronic Reporter, do hereby certify that I am a disinterested person herein; that I recorded the foregoing California Energy Commission Hearing; that it was thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of February, 2001.

JAMES RAMOS

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